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Tuesday
May 28, 1985

Selected Subjects

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 517; Lemon Reg. 516, Amdt. 1]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona lemons that may be shipped to the fresh market at 285,000 cartons during the period May 26–June 1, 1985, and increases the quantity of lemons that may be shipped to 335,000 cartons during the period May 19–25, 1985. Such action is needed to provide for orderly marketing of fresh lemons for such periods due to the marketing situation confronting the lemon industry.

DATES: The regulation (§ 910.817) becomes effective May 26, 1985, and the amendment (§ 910.816) is effective for the period May 19–25, 1985.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy currently in effect. The committee met publicly on May 21, 1985, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified weeks.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 910—[Amended]

1. The authority citation for 7 CFR Part 910 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. New § 910.817 is added to read as follows:

§ 910.817 Lemon Regulation 517.

The quantity of lemons grown in California and Arizona which may be handled during the period May 26, 1985, through June 1, 1985, is established at 285,000 cartons.

3. § 910.816 Lemon Regulation 516 is revised to read as follows:

§ 910.816 Lemon Regulation 516.

The quantity of lemons grown in California and Arizona which may be handled during the period May 19, 1985, through May 25, 1985, is established at 335,000 cartons.

Dated: May 23, 1985.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 85–12868 Filed 5–24–85; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 1124

Milk in the Oregon-Washington Marketing Area; Order Suspending Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action suspends for the months of May through August 1985 the provisions of the Oregon-Washington Federal milk order that limit the amount of milk not needed for fluid (bottling) use that may be moved directly from farms to nonpool plants and still be priced under the order. The action was requested by a federation of three cooperative associations that represent a substantial number of the producers who supply the market. The suspension is needed to assure that the milk of dairy farmers long associated with the market will continue to be priced and pooled under the order without requiring unnecessary and uneconomic movements of milk.

EFFECTIVE DATE: May 28, 1985.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–2089.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding: Notice of Proposed Suspension: Issued April 25, 1985; published May 1, 1985 (50 FR 18495).

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. Such action lessens the regulatory impact of the order on certain milk handlers and tends to insure that

dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Oregon-Washington marketing area.

Notice of proposed rulemaking was published in the **Federal Register** on May 1, 1985 (50 FR 18495) concerning proposed suspension of certain provisions of the order. Interested parties were afforded opportunity to file data, views, and arguments thereon. No comments opposing the suspension were received.

A federation of three cooperative associations (Farmers Cooperative Creamery, Oregon Jersey Cooperative and Tillamook County Creamery Association) requested suspension of the division limits. Proponent submitted data showing generally increasing milk production in the Oregon-Washington market, with a slight decline in Class I use and a large increase in Class III use. Proponent also included data indicating that on an individual basis two of the three cooperatives would be unable to pool all of their producer milk under the present diversion limits. On the basis of combined diversions, the three cooperatives would have failed to qualify all of their milk for pooling during the month of March 1985.

Proponent cites decreasing demand for cooperatives' milk in proprietary distributing plants as a result of increasing numbers of, and production by, nonmember producers and increasing milk movements between proprietary plants. A sharp decrease in school milk sales in the latter part of May, with cessation of those sales until September, was mentioned as an additional factor contributing to a decline in the amount of Federation member milk that will be needed by pool plants.

The milk produced by Farmers Cooperative Creamery and Tillamook County Creamery Association members is currently pooled within the order's diversion limits by means of letters on file with the market administrator requesting that allowable diversions be computed on the basis of combined deliveries of milk by the producer members of Farmers Cooperative Creamery, Tillamook County Creamery Association, and Northwest Dairymen's Association, a large northwest cooperative. While proponent federation expressed gratitude for having the opportunity to have the allowable diversions of two of its member cooperatives computed on the basis of a combining letter with Northwest Dairymen's Association, the proponent believed, too, that there was a need to have pooling and diversion provisions in the federal order that would permit member milk of the three cooperatives of the federation to qualify for pooling on its own if the need arises. According to proponent, if such a need should arise, failure to grant the requested suspension would make it necessary to move milk in and out of pool plants for the months of May through August in order to qualify members' milk for pooling. Such movements would be needlessly inefficient and costly.

After consideration of all relevant material, including the proposal in the notice and other available information, it is hereby found and determined that for the months of May through August 1985 the following provisions do not tend to effectuate the declared policy of the Act:

In § 1124.11(a), the words "The aggregate quantity diverted may not exceed 60 percent of the producer milk which the association or its agent causes to be delivered to pool plants, or diverted therefrom. Two or more cooperative associations may have their allowable diversions computed on the basis of the combined deliveries of milk by their member producers if each association has filed such a request in writing with the market administrator on or before the first day of the month such agreement is effective. This request shall specify the basis for assigning any over-diverted milk to the producer members of each cooperative association according to a method approved by the market administrator."

In § 1124.11(b), the words "The aggregate quantity diverted may not exceed 60 percent of the producer milk received at or diverted from such handler's pool plant(s) and for which the operator of such plant(s) is the handler during the month."

Statement of Consideration

This suspension removes the limit on the amount of milk that may be diverted from pool plants to nonpool plants during the months of May through August 1985. The order now provides that the aggregate quantity of milk diverted to nonpool plants may not exceed 60 percent of the producer milk handled by a cooperative association or proprietary handler.

The suspension was requested by a federation of three cooperative associations that represent a substantial number of the producers who supply the market. The suspension is necessary to continue to include in the marketwide pool the milk of producers who have long been associated with the market. Seasonal increases in milk production, combined with the end of the paid diversion program, are expected to result in a surge of milk production in the market that will displace some of the regularly pooled producer milk from its usual fluid accounts. In addition, the end of the school year is expected to reduce fluid use in the market. Suspension of the diversion limits for the months of May through August 1985 will make it unnecessary to move milk in a costly and inefficient manner solely for the purpose of assuring that dairy farmers supplying the fluid needs of the market will have their milk priced and pooled under the order.

In view of these circumstances, it is concluded that the aforesaid provisions should be suspended to ensure the orderly marketing of milk supplies. The suspension will provide greater flexibility in the handling of the market's reserve milk supplies and thus prevent uneconomic movements of some milk through pool plants merely for the purpose of qualifying it for producer milk status under the order.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to assure the orderly marketing of milk in the marketing area;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded an opportunity to file written data, views or arguments concerning this suspension. Views in favor of the proposed action were received from interested parties and considered in determining whether the proposed suspension should be adopted. No comments opposing the suspension were received.

Therefore, good cause exists for making this order effective upon publication in the **Federal Register**.

List of Subjects in 7 CFR Part 1124

Milk marketing orders, Milk, Dairy products.

PART 1124—[AMENDED]

The authority citation for Part 1124 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

It is therefore ordered, that the following language in § 1124.11 is suspended for the months of May through August 1985.

§ 1124.11 [Amended]

1. In § 1124.11(a), the words "The aggregate quantity diverted may not exceed 60 percent of the producer milk which the association or its agent causes to be delivered to pool plants, or diverted therefrom. Two or more cooperative associations may have their allowable diversions computed on the basis of the combined deliveries of milk by their member producers if each association has filed such a request in writing with the market administrator on or before the first day of the month such agreement is effective. This request shall specify the basis for assigning any over-diverted milk to the producer members of each cooperative association according to a method approved by the market administrator." and

2. In § 1124.11(b), the words "The aggregate quantity diverted may not exceed 60 percent of the producer milk received at or diverted from such handler's pool plant(s) and for which the operator of such plant(s) is the handler during the month."

Effective date: May 28, 1985.

Signed at Washington, D.C. on: May 21, 1985.

Karen K. Darling,

Deputy Assistant Secretary, Marketing & Inspection Services.

[FR Doc. 85-12761 Filed 5-24-85; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 1965

Security Servicing for Multiple Family Housing Loans

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule; correction.

SUMMARY: The Farmers Home Administration (FmHA) corrects a final rule published December 21, 1984 (49 FR 49587). In the revision to FmHA's regulation regarding Security Servicing for Multiple Family Housing Loans, published December 21, 1984, the word "as" was incorrectly typed as "are," the word "any" was incorrectly typed as "pay" and the word "unavailable" was incorrectly typed as "available." The intent of this action is to correct these errors.

FOR FURTHER INFORMATION CONTACT: Dean Greenwalt, Branch Chief, Multiple Family Housing Servicing and Property Management Division, Room 5321-S, Farmers Home Administration, USDA, 14th and Independence Avenue, SW., Washington, D.C. 20250. Telephone (202) 382-1615.

SUPPLEMENTARY INFORMATION: The following corrections are made in FR Doc. 84-33205 appearing on pages 49587 to 49610 in the issue of December 21, 1984.

PART 1965—REAL PROPERTY

1. The authority citation for Part 1965 continues to read as follows:

Authority: 42 U.S.C. 1480; 7 CFR 2.23; 7 CFR 2.70.

Subpart B—Security Servicing for Multiple Housing Loans

§ 1965.65 [Corrected]

2. Paragraph (a)(4) of § 1965.65, appearing on page 49594, is corrected by changing the word "are" in the first sentence to read as "as."

3. Paragraph (b)(3)(ii) of § 1965.65, appearing on page 49595, is corrected by changing the word "pay" to read "any."

§ 1965.79 [Corrected]

4. Paragraph (a) of § 1965.79, appearing on page 49605, is corrected by changing the word "available" in the second sentence to read as "unavailable."

Dated: April 30, 1985.

Dwight O. Calhoun,

Acting Associate Administrator, Farmers Home Administration.

[FR Doc. 85-12684 Filed 5-24-85; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 84-NM-106-AD; Amdt. 39-5076]

Airworthiness Directives; Aerospatiale (Sud Nord) Nord 262A and 262A-12 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) which supersedes an existing AD applicable to Aerospatiale Model Nord 262A and 262A-12 series airplanes which requires periodic inspection and treatment of the rudder hinge support tubes. This action is necessary because the manufacturer has determined that one protective treatment procedure currently specified to prevent corrosion is incomplete and is not acceptable. Corrosion in this area could lead to the failure of the rudder hinge support tubes and subsequent loss of rudder control. This AD requires compliance with a later revision to the manufacturer's service bulletin.

DATE: Effective July 5, 1985.

ADDRESSES: The service bulletin specified in this AD may be obtained from Aerospatiale, Service Commercial N262, Boite Postale 159, 36003 Chareauroux, France, or may be examined at the Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Michael P. West, Standardization Branch, ANM-113; telephone (206) 431-2909. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: Internal corrosion and corrosion penetration to the outer surface has been found in rudder hinge support tubes on Nord Model 262A and 262A-12 series airplanes during routine maintenance. AD 83-17-01, Amendment 39-4710 (48 FR 37364; August 18, 1983), was issued to require inspection and treatment of the rudder hinge support tubes.

The Direction General de l'Aviation Civile (DGAC), which is the Civil Airworthiness Authority of France, has declared Aerospatiale N262 Fregate Service Bulletin No. 55-10 Revision 2, dated January 31, 1984, as mandatory. This service bulletin prescribes improved inspection procedures, new protective treatment, and replacement of components, as necessary, on the rudder hinge support structure; it also increases the repeat inspection time to six years maximum.

A proposal to amend Part 39 of the Federal Aviation Regulation to include an airworthiness directive which requires the action mentioned above was published in the **Federal Register** on January 17, 1985 (50 FR 3919). The comment period closed March 18, 1985, and interested persons have been afforded an apportunity to participate in the making of this amendment. No comments were received.

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 16 U.S. registered airplanes will be affected by this AD, that it will take approximately 13 manhours per airplane to accomplish the increased inspection and revised protective procedure, and that the average labor cost will be $40 per manhour. Repair parts are estimated at $250 per airplane. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $12,320.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because few, if any, Aerospatiale Nord Model 262A or 262A-12 series airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Aerospatiale (Sud Nord): Applies to Nord Model 262A and 262A-12 series airplanes, certificated in all categories. Compliance required within 100 hours time in service or 3 months, whichever occurs first, after the effective date of this AD. To prevent failure of the rudder hinge support tubes and subsequent loss of rudder control, accomplish the following, unless previously accomplished:

A. Inspect and protect against corrosion, or replace components if necessary, in accordance with paragraph II, Accomplishment Instructions, of Aerospatiale N262 Fregate Service Bulletin No. 55-10, Revision 2, dated January 31, 1984.

B. Repeat the inspection required by paragraph A., above, at intervals not to exceed six years.

C. Those airplanes having new rudder hinge support tubes treated in accordance with service bulletin No. 55-10, revision 1, Corrosion Protection Scheme 1, do not have to be inspected until six years after the installation of the new hinge support tubes.

D. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

This supersedes Amendment 39-4710 (48 FR 37364; August 18, 1983), AD 83-17-01.

This amendment becomes effective July 5, 1985.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89)

Issued in Seattle, Washington, on May 21, 1985.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 85-12775 Filed 5-24-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 85-CE-9-AD; Amdt. 39-5070]

Airworthiness Directives; Beech Models 58P and 58PA Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to certain Beech Models 58P and 58PA airplanes, which temporarily prohibits the use of seat numbers five and six during takeoff and landing and requires modification of the floorboard attachments of these seats. The manufacturer has reported that a key part of these attachments was not installed during manufacture of the affected airplanes. The actions required by this AD will preclude the possibility of seat failure during a minor crash landing.

EFFECTIVE DATE: July 1, 1985.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Beech Service Bulletin No. 2022, dated February, 1985, applicable to this AD may be obtained from Beech Aircraft Corporation, Wichita, Kansas 67201. A copy of this information is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Engler, Aerospace Engineer, Airframe Branch, ACE-120W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946-4409.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD which prohibits use of the fifth and sixth seats during takeoff and landing until the modifications of Service Bulletin No. 2022 are accomplished on certain Beech Model 58P and 58PA airplanes was published in the **Federal Register** on March 21, 1985 (50 FR 11377).

The proposal resulted from a crash landing involving a Beech Model 58P airplane where the occupant of seat number six was injured when the seat came partially free from the floorboards. The aft outboard attachment to the floor structure failed by pulling a nutplate through the floor. Beech has evaluated this occurrence and found that a key part had been omitted from the fifth and sixth seat attachments on all production 58P and 58PA airplanes. As a result, Beech issued Service Bulletin No. 2022, dated February, 1985, which provides for reinforcement of these seat attachments.

The FAA has determined that the unsafe condition described herein is likely to exist or develop in other airplanes of the same type design. Therefore, an AD was proposed which prohibits use of the fifth and sixth seats during takeoff and landing on certain Beech Model 58P and 58PA airplanes until the modifications of Service Bulletin No. 2022 are accomplished. Interested persons have been afforded an opportunity to comment on the proposal. No comments or objections were received on the proposal or the FAA determination of the related cost to the public. Accordingly, the proposal is adopted without change.

The FAA has determined that this regulation involves 440 airplanes at an approximate one-time cost of $242 for each airplane or a total one-time fleet cost of $106,480 to the private sector. This cost is so small that compliance with the directive will not have a significant financial impact on any small entities owning affected airplanes. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

PART 39—[AMENDED]

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the FAR as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89; and 49 CFR 1.47.

2. By adding the following new AD:

Beech: Applies to Models 58P and 58PA (Serial Numbers TJ–3 through TJ–443 except TJ–436) airplanes, certificated in any category.

Compliance: As indicated in the body of the AD, unless already accomplished.

To prevent possible injuries due to passenger seat failure in an emergency landing, accomplish the following:

(a) Within the next 25 hours time-in-service after the effective date of this AD, placard the airplane and modify the AFM as follows:

(1) Fabricate and install in full view of the pilot a temporary placard using letters of minimum .10 inch in height which states:

"DO NOT OCCUPY SEATS 5 OR 6 DURING TAKEOFF OR LANDING"

and operate the airplane in accordance with these limitations.

(2) Attach a copy of this AD to the Limitations section of the AFM.

(3) The requirements of paragraphs (a)(1) and (a)(2) of this AD may be accomplished by the holder of a pilot certificate issued under Part 61 of the Federal Aviation Regulations (FAR) on any airplane owned or operated by him. The person accomplishing these actions must make the appropriate aircraft maintenance record entry as prescribed by FAR 91.173.

(b) Within the next 100 hours time-in-service or one calendar year after the effective date of this AD, whichever occurs first, modify the seat attachments of the fifth and sixth seats in accordance with the provisions of Beech Service Bulletin No. 2022, dated February, 1985.

(c) The requirements and limitations of paragraph (a) of this AD may be removed when the modification required by paragraph (b) have been accomplished.

(d) An equivalent means of compliance with this AD may be used, if approved by the Manager, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946–4400.

All persons affected by this directive may obtain copies of the document referred to herein upon request to Beech Aircraft Corporation, Wichita, Kansas 67201, or FAA, Office of Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on July 1, 1985.

Issued in Kansas City, Missouri, on May 17, 1985.

William H. Pollard,

Acting Director, Central Region.

[FR Doc. 85–12778 Filed 5–24–85; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 84–NM–119–AD; Amdt. 39–5075]

Airworthiness Directives; British Aerospace Model BAC 1–11 200 and 400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) applicable to British Aerospace Model BAC 1–11 200 and 400 series airplanes which requires repetitive inspections and repairs, if necessary, of the tailplane center section top skin assembly for cracks in the reinforcing plate. Cracks have been reported in the reinforcing plate on high flight time airplanes. Uncontrolled propagation of these cracks could lead to structural failure of the horizontal stabilizer.

DATE: Effective July 5, 1985.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to British Aerospace Inc., Box 17414, Dulles International Airport, Washington, D.C. 20041, or may be examined at the Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, ANM–113; telephone (206) 431–2979. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The Civil Aviation Authority of the United Kingdom (CAA) has classified British Aerospace Alert Service Bulletin 55–A–PM5873 as mandatory. Cracks in a reinforcing plate attached to the tailplane center section top skin have been reported. These cracks have developed from the edge of the plate, and have propagated perpendicularly to the plate edge. They may or may not terminate in a rivet hole. The service bulletin prescribes repetitive inspections and, if cracks are found, repairs before further flight.

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive which requires the action mentioned above was published in the **Federal Register** on February 11, 1985 (50 FR 5626), and interested persons have been afforded an opportunity to participate in the making of this amendment. The only comment received was from the manufacturer who concurred with the proposal. However, the manufacturer indicated that there are three additional reinforcing plates, and that uncontrolled crack propagation in the first plate could only lead to total failure if all the remaining reinforcing plates were to fail. This clarifies what was written in the "Discussion" section of the Notice of Proposed Rulemaking (NPRM), which stated that: "Uncontrolled propagation of these cracks create a significant reduction in static strength of the tail plane center sections, which could lead to the inability of the structure to withstand limit loads."

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 60 U.S. registered airplanes will be affected by this AD, that it will take approximately 32 manhours per airplane to accomplish the required action, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $76,800.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibflity Act that this rule will not have a signficant economic effect on a substantial number of small entities because few, if any, British Aerospace Model BAC 1–11 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

British Aerospace: Applies to Model BAC 1–11 200 and 400 series airplanes, certificated in all categories. To prevent loss in the

integrity of the tailplane center section top skin assembly due to cracks in reinforcing plates, accomplish the following upon accumulation of 40,000 landings or within the next 120 days after the effective date of this AD, whichever occurs later, unless previously accomplished:

A. Inspect the tailplane center section top skin assembly for cracks in reinforcing plate AB18-3663 (200 series) and AK18-965 (400 series) in accordance with the accomplishment instructions of British Aerospace BAC 1-11 Service Bulletin 55-A-PM5873, dated October 17, 1983:

1. If no cracks are found, repeat the inspection specified above at intervals not to exceed 7,500 landings;

2. If cracks are found, repair in accordance with the accomplishment instructions of the service bulletin before further flight. Reinspect in accordance with paragraph 2.2.1 of the service bulletin.

B. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

This amendment becomes effective July 5, 1985.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89))

Issued in Seattle, Washington, on May 21, 1985.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 85-12777 Filed 5-24-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 84-NM-108-AD; Amdt. 39-5074]

Airworthiness Directives; DeHavilland Model DHC-7 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) which requires modification and relocation, as necessary, of No. 2 and No. 3 engine fuel drains on certain DeHavilland Model DHC-7 airplanes. This action is necessary to prevent additional fires caused by draining fuel contacting hot brakes. The specified modification will cause the fuel to drain a safe distance from the brakes.

DATES: Effective July 5, 1985.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to DeHavilland Aircraft of Canada, Ltd., Downsview, Ontario M3K1Y5, Canada. This information may be examined at FAA, New England Region, New York Aircraft Certification Office, 181 S. Franklin Avenue, Room 202, Valley Stream, New York, or at FAA, Northwest Mountain Region, Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond O'Neill, New York Aircraft Certification Office, FAA, New England Region, 181 S. Franklin Avenue, Room 202, Valley Stream, New York 11581; telephone (516) 791-7421.

SUPPLEMENTARY INFORMATION: The Canadian Department of Transport (DOT) has classified Modification No. 7/2175 as mandatory. DeHavilland Service Bulletin 7-71-18, Revision A, dated January 20, 1984, describes the modification which requires relocation of the engine fuel flow drain on Numbers 2 and 3 engine nacelles to preclude the potential for fire caused by fuel spilling onto hot brakes. Two occurrences of this have been reported; one resulted in a fire. The modifications specified in this AD are intended to preclude recurrence of these incidents by relocating the fuel drain to an area where the draining fuel will not impinge upon the brake.

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive which requires the action described above was published in the **Federal Register** on January 17, 1985 (50 FR 3915). The comment period closed March 18, 1985, and interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received.

Therefore, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 46 U.S. registered airplanes will be affected by this AD, that it will take approximately 8 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Modification parts to accomplish the required actions are $1095 per airplane. Based on these figures, the total cost impact of this AD to the U.S. operators is estimated to be $65,090.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because few, if any DeHavilland Model DHC-7 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

DeHavilland: Applies to DeHavilland Model DHC-7 series airplanes, serial numbers (S/N) 3 thru 88, 89, 91, 94, and 95, certificated in all categories. To preclude the occurrence of a ground fire caused by engine fuel impinging on landing gear brakes under certain wind conditions, accomplish the following, unless already accomplished:

A. Within the next nine months after the effective date of this AD, accomplish a modification of the engine fuel drain system in accordance with Modification No. 7/2175 and DeHavilland Service Bulletin 7-71-18, Revision A, dated January 20, 1984.

B. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, New York Aircraft Certification Office, FAA, New England Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and modifications required by this AD.

This Amendment becomes effective July 5, 1985.

(Sec. 313(a), 314(a), 601 and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1345(a), 1421 and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89))

Issued in Seattle, Washington, on May 21, 1985.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 85-12776 Filed 5-24-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 85-CE-17-AD; Amdt. 39-5071]

Airworthiness Directives; DeHavilland Model DHC-3 Airplanes

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD), applicable to DeHavilland Model DHC-3 airplanes. It requires initial and repetitive inspections or modifications to ensure security of the seat to the rail. Inspection findings indicate that the seat legs may be dislodged from the mounting rails during normal usage. The inspections and modifications will eliminate hazards to seat occupants resulting from an inadequately restrained seat during a crash.

EFFECTIVE DATE: June 3, 1985.

Compliance: As prescribed in the body of the AD.

ADDRESSES: DeHavilland Service Bulletin S/B No. 3/42 dated August 31, 1984, applicable to this AD may be obtained from DeHavilland Aircraft of Canada, Downsview, Ontario, Canada MY3 1YK. A copy of this information is also contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Vahan Barsamian, FAA, New York Aircraft Certification Office, 181 South Franklin Avenue, Valley Stream, New York 11581; Telephone (516) 791-6220.

SUPPLEMENTARY INFORMATION: The side folding utility seats in the DeHavilland Model DHC-3 are the same as those on the Model DHC-6, for which AD 84-07-07 was issued. Although there have been no reported occurrences of the front seat leg disengaging on the Model DHC-3, DeHavilland has issued Service Bulletin No. 3/42, which provides for inspection and installation of a positive locking mechanism (Modification No. 3/932) to prevent disengagement of the seat forward leg from the seat rail. The Department of Transport, who has responsibility and authority to maintain the continuing airworthiness of these airplanes in Canada, has issued Airworthiness Directive No. CF-85-03 dated February 14, 1985. The FAA relies upon the certification of the Department of Transport combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness and conformity of products of this design certificated for operation in the United States.

The FAA has examined the available information related to the issuance of Transport Canada AD No. CF-85-03. Based on the foregoing, the FAA has determined that the condition addressed by Service Bulletin No. 3/42 is an unsafe condition that may exist on other products of the same type design certificated for operation in the United States.

Therefore, an AD is being issued requiring inspection and incorporation of Modification No. 3/932 on DeHavilland Model DHC-3 airplanes fitted with side folding cabin utility seats. Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

Note. The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption **"ADDRESSES"** at the location identified.

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends Section 39.13 of Part 39 of the FAR as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority. 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); 14 CFR 11.89 and 49 CFR 1.47.

2. By adding the following new AD.

DeHavilland: Applies to Model DHC-3 (all serial numbers) airplanes certificated in any category.

Compliance: Required as indicated, unless already accomplished. To prevent disengagement of the utility seat forward legs, accomplish the following:

(a) Within 50 hours time-in-service after the effective date of this AD, unless already accomplished within the last 25 hours time-in-service, and at subsequent intervals of 50 hours time-in-service, attempt to move the lower end of each leg sideways into the open part of the keyhole slot using as much force as can be exerted by hand. If the leg can be released from the keyhole slot, remove the seat from service until DeHavilland Modification No. 3/932 is incorporated. (This modification is contained in DeHavilland Service Bulletin No. 3/42, dated August 31, 1984).

(b) If Modification No. 3/932 is installed, subsequent inspections required by this AD are no longer required.

(c) An equivalent means of compliance may be used when approved by the Manager, New York Aircraft Certification Office, Federal Aviation Administration, ANE-170, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to DeHavilland Aircraft of Canada, Downsview, Ontario, Canada MY3 1YK or FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective: June 3, 1985.

Issued in Kansas City, Missouri, on May 17, 1985.

William H. Pollard,

Acting Director Central Region.

[FR Doc. 85-12779 Filed 5-24-85; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Dkt. C-3153]

Associated Dry Goods Corp.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent Order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires a New York merchandise retailer, among other things, to cease failing to disclose to an applicant who has been denied credit on the basis of information contained in a consumer report (including non-derogatory information or no file response), that the adverse action was based wholly or partly on information reported by a credit bureau; and provide the rejected applicant with the name and address of the reporting agency. The Order additionally requires that a copy of the letter attached to the Order as Appendix A be completed to include the name and address of the appropriate consumer reporting agency, and mailed within 90 days to credit applicants who were denied credit by Robinson's of Florida or Hahne and Company, divisions of Associated Dry Goods Corporation.

between January 1, 1982, and December 31, 1983, on the basis of information submitted by a consumer reporting agency.

DATE: Complaint and Order issued May 7, 1985.[1]

FOR FURTHER INFORMATION CONTACT: Paul K. Davis, Atlanta Regional Office, F.T.C., 1718 Peachtree St., Room 1000, Atlanta, GA 30367 (404) 881–4836.

SUPPLEMENTARY INFORMATION: On Friday, February 22, 1985, there was published in the **Federal Register**, 50 FR 7348, a proposed consent agreement with analysis in the Matter of Associated Dry Goods Corporation, a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth below in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Collecting, Assembling, Furnishing or Utilizing Consumer Reports: § 13.382 Collecting, assembling, furnishing or utilizing consumer reports and/or information; § 13.382–5 Formal regulatory and/or statutory requirements; § 13.382–5(a) Fair Credit Reporting Act. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533–20 Disclosures; § 13.533–37 Formal regulatory and/or statutory requirements; § 13.533–45 Maintain records. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1852 Formal regulatory and statutory requirements; § 13.1852–25 Fair Credit Reporting Act.

List of Subjects in 16 CFR Part 13

Consumer credit, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 84 Stat. 1128–36; 15 U.S.C. 1681–1681t)

Emily H. Rock,

Secretary.

[FR Doc. 85–12683 Filed 5–24–85; 8:45 am]

BILLING CODE 6750–01–M

[1] Copies of the Complaint and the Decision and Order filed with the original document.

16 CFR Part 13

[Dkt. C–3152]

Descent Control, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent Order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires a Fort Smith, Ark. marketer and distributor of the "Sky Genie" and other systems that are used for descent, rescue or escape from high places, among other things, to cease misrepresenting that any descent system provides an automatically-controlled descent or contains long-lasting line. The company is required to have a reasonable basis consisting of certain data before making claims concerning the safety and performance characteristics of descent systems; or representations that the products meet or exceed any standard, or are used as sold by any government agency or non-government organization. The firm is also required to disclose in catalogs, technical bulletins and operating instructions that the line should be replaced after two uses for rapid descent at speeds exceeding 15 feet per second; and that the line must be replaced immediately if exposed to certain chemicals or used to arrest a free fall of two feet or more. Technical bulletins and operating instructions must warn users that any line that has been used as a utility line should not be used as a safety line; that the safety and speed of descent is dependent upon manual control by the user; and that descent systems should not be used by individuals who are not familiar with their use. The order additionally requires the firm to affix a warning label to all descent systems; mail specified safety information to past customers; and place advertisements containing the safety information in certain trade publications.

DATE: Complaint and Order issued April 29, 1985.[1]

FOR FURTHER INFORMATION CONTACT: Jeffrey M. Karp, FTC/H–210, Washington, D.C. 20580. (202) 523–3660.

[1] Copies of the Complaint and the Decision and Order are filed with the original document.

SUPPLEMENTARY INFORMATION: On Tuesday, Feb. 5, 1985, there was published in the **Federal Register**, 50 FR 4983, a proposed consent agreement with analysis In the Matter of Descent Control, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Advertising Falsely or Misleadingly: § 13.10 Advertising falsely or misleadingly; § 13.85 Government approval, action, connection or standards; § 13.170 Qualities or properties of product or service; § 13.195 Safety; § 13.195–60 Product; § 13.205 Scientific or other relevant facts; § 13.245 Specifications or standards conformance. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533–20 Disclosures; § 13.533–40 Furnishing information to media; § 13.533–45 Maintain records. Subpart—Misrepresenting Oneself and Goods—Goods: § 13.1645 Government standards or specifications; § 13.1710 Qualities or properties; § 13.1740 Scientific or other relevant facts. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1863 Limitations of product; § 13.1885 Qualities or properties; § 13.1890 Safety; § 13.1895 Scientific or other relevant facts.

List of Subjects in 16 CFR Part 13

Descent systems, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Emily H. Rock,

Secretary.

[FR Doc. 85–12680 Filed 5–24–85; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 4

[Docket Nos. RM83-56-001, 002, 003]

Application for License, Permit, and Exemption From Licensing for Water Power Project

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order Granting Rehearing of Final Rule for Purposes of Further Consideration.

SUMMARY: On March 20, 1985, the Federal Energy Regulatory Commission (Commission) issued a final rule amending the Commission's regulations governing application for license, permit, and exemption from licensing for hydroelectric projects. Timely applications for rehearing of the final rule were filed. In order to provide sufficient time to consider the substantive issues raised in these applications, the Commission is granting rehearing solely for the purposes of further consideration.

DATE: This order was issued May 20, 1985.

FOR FURTHER INFORMATION CONTACT: Joseph H. Long, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-5555.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Raymond J. O'Connor, Chairman; A.G. Sousa, Oliver G. Richard III, and Charles G. Stalon.

On March 20, 1985, the Federal Energy Regulatory Commission (Commission) issued a final rule amending the Commission's regulations governing application for hydroelectric license, permit, and exemption from licensing for hydroelectric projects.[1] The rulemaking: (1) Clarifies and revises many of the Commission's regulations that govern hydroelectric applications, which are set forth in 18 CFR Part 4; (2) amends Part 4 to incorporate Commission decisions into the regulations; and (3) reorganizes several sections of Part 4 to integrate the regulations governing exemption applications into Subpart D of Part 4. Subpart D prescribes the general procedural rules for filing applications, the rules of competition, and the rules for competing applications.

Timely applications for rehearing of the final rule were filed by the National Hydropower Association,[2] the Pacific Gas and Electric Company,[3] and jointly by the National Wildlife Federation, the National Audubon Society and the Friends of the Earth.[4]

In their requests for rehearing, the Pacific Gas and Electric Company and the National Hydropower Association also request the Commission to stay the effective date of the final rule.

In order to provide sufficient time to consider the substantive issues raised in these applications for rehearing, the Commission is granting rehearing solely for the purposes of further consideration.

The Commission Orders

The applications for rehearing filed by the above-named groups are granted solely for purposes of further consideration of their substantive issues. This action does not constitute a grant or denial, in whole or in part, of the applications on the merits. Because this order is not a final order on rehearing, no responses to the applications for rehearing will be entertained by the Commission. *See* 18 CFR 385.713(d).

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-12693 Filed 5-24-85; 8:45 am]

BILLING CODE 6717-01-M

18 CFR Part 385

[Docket No. RM79-32-000; Order No. 24-C]

Establishment of Final NGPA Adjustment Procedures

Issued: May 23, 1985.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: Section 502(c) of the Natural Gas Policy Act of 1978 (NGPA) requires the Federal Energy Regulatory Commission to establish procedures by which any person may seek an adjustment from Commission rules or orders issued under the NGPA. The Commission previously adopted those procedures on an interim basis. It now finalizes those procedures with four changes. Those changes are: (1) To eliminate the issuance of proposed orders by presiding officers, (2) to provide that staff may deny a petition for failure to provide requested information only if that information was reasonably available to the petitioner, (3) to replace the requirement that staff file the complete record of its proceedings upon appeal of its order with a requirement that it file a list identifying the documents in the record, and (4) to clarify that persons who did not intervene in the staff proceeding may file motions for late intervention in order to participate in the appeal proceeding.

EFFECTIVE DATE: June 27, 1985.

FOR FURTHER INFORMATION CONTACT: Richard Howe, Jr., Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8308.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Raymond J. O'Connor, Chairman; A.G. Sousa, Oliver G. Richard III and Charles G. Stalon.

Establishment of Final NGPA Adjustment Procedures; Docket No. RM79-32-000, Order No. 24-C.

I. Introduction

The Federal Energy Regulatory Commission (Commission) is adopting on a final basis, with some amendments, its interim procedures by which any person may seek an adjustment under section 502(c) of the Natural Gas Policy Act (NGPA)[1] from Commission rules or orders issued under the NGPA. The Commission changes the interim procedures in only four respects: (1) By eliminating the issuance of proposed orders by the presiding officer and comments thereon, (2) by providing that staff may deny a petition for failure to provide requested information only if that information was reasonably available to the petitioner, (3) by replacing the requirement that staff file the complete record of its proceedings upon appeal of its order to the Commission with a requirement that staff file a list identifying the documents in the record and (4) by clarifying that persons who did not seek to intervene in the staff proceeding may file motions for late intervention under rule 214(d) in order to participate in the appeal proceeding.[2]

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[1] Application for License, Permit and Exemption from Licensing for Water Power Projects, 50 CFR 11658 (Mar. 25, 1985) (Order No. 413).

[2] Application for Rehearing filed by National Hydropower Assn., filed Apr. 18, 1985 (Docket No. RM83-56-001).

[3] Application for Rehearing filed by Pacific Gas and Electric Co., filed Apr. 18, 1985 (Docket No. RM83-56-002).

[4] Application for Rehearing filed by National Wildlife Federation, et al., filed Apr. 19, 1985 (Docket No. RM83-56-003).

[1] 15 U.S.C. 3412(c) (1982).

[2] 18 CFR 385.214(d) (1984). In addition, the Commission is making certain other minor changes

Continued

II. Background

Adjustments under section 502(c) are granted when necessary to prevent special hardship, inequity, or an unfair distribution of burdens. Section 502(c) requires that the Commission provide persons aggrieved by an initial denial of an adjustment a right to seek Commission review of the denial. Also, the Commission must provide "an opportunity for oral presentation of data, views, and arguments." On March 22, 1979, the Commission issued Order No. 24,[3] establishing the required procedures on an interim basis. The Commission received comments on those procedures from ten companies, one trade association, and the Public Service Commission of New York.

The Commission has amended the interim procedures twice, by orders issued on November 27, 1979,[4] and March 24, 1980.[5] The first amendment permitted the Commission to waive the adjustment procedures in appropriate circumstances. The second modified the deadlines for interventions and replies to requests for interim relief and removed the restriction on the Director of the Office of Pipeline and Producer Regulation from advising the Commission concerning appeals from the staff's order. Three companies filed comments on the first amendment and one company on the second. Also, the American Bar Association filed comments on the interim procedures on June 25, 1982.

The interim procedures adopted by the Commission establish a three-tier system for considering adjustment requests. Initially, staff evaluates the request and issues an order granting or denying the request. Staff's evaluation is based primarily on the written pleadings. While staff may request additional information from the petitioner or others[6] and convene a conference,[7] participants do not have a right to a hearing or to conduct discovery at this stage of the proceeding.

Persons aggrieved by the staff order may petition for Commission review of that order. The Commission or its designee appoints a presiding officer,[8] who conducts the second stage in the consideration of an adjustment request in accordance with the procedures set forth in Subpart J of Part 385[9] governing appeals from orders issued by the Secretary of Energy under section 504(a) of the DOE Organization Act.[10] Under those procedures as in effect before their amendment by Order No. 422[11] issued this day, participants have a right to a hearing before the presiding officer. The presiding officer determines the nature of the hearing. The presiding officer may permit a participant to raise new facts or issues which were not known and could not have been known earlier in the proceeding or which are necessary for a full and true disclosure of the facts. The presiding officer issues a proposed order affirming, modifying, or reversing staff's order. Participants may file comments on the proposed order. The Commission, in the third stage in the consideration of an adjustment request, then decides the appeal and issues a final order on the adjustment request.

The Commission is generally satisfied that these interim adjustment procedures have worked well during the six years they have been in place. Accordingly, after carefully reviewing all the comments, the Commission concludes that those procedures should be made final with only four substantive changes.

III. Comment Analysis and Amendments to Interim Procedures

A. Modification of the Three-tier Adjustment Procedure

The most fundamental issue raised by commenters is whether the three-tier adjustment procedure should be modified by eliminating one of the first two tiers. Commenters contend that this change would expedite consideration of adjustment requests. The American Bar Association (ABA) proposes that staff make the initial decision in most cases with appeals from the staff decision made directly to the Commission, rather than to a presiding officer. The ABA states, however, that staff or the Commission should have discretion to refer a proceeding to an administrative law judge to make the initial decision when, for example, difficult oral proceedings are expected because there are multiple parties with opposing interests and the issues are complex. Another commenter proposes elimination of the staff stage of the three-tier adjustment procedure. It states that a presiding officer should be appointed immediately. If there were contested issues, he would conduct a hearing and issue a proposed order. If not, staff and other parties would draft a consent order, which the presiding officer would forward to the Commission.

The Commission believes that the three-tier system for considering adjustment requests should be retained but modified so that the presiding officer, while holding any necessary hearing and ruling on interlocutory matters, does not issue a proposed order. The informal proceedings before staff are intended to provide "an abbreviated 'paper pleading' procedure by which the problems can be presented to and resolved by Commission Staff"[12] without the need for a hearing, discovery, or any of the other time-consuming aspects of a formal adjudicatory proceeding. Experience shows that the staff proceedings have achieved this objective. Specifically, most adjustment requests filed under the interim procedures have been resolved at the staff level without appeal to a presiding officer.[13] Either staff determined that the adjustment should be granted, or, for whatever reason, the applicant decided not to contest an adverse staff decision. Also, resolution of adjustment requests at the staff level not only results in those requests being decided relatively quickly, but also conserves the Commission's resources, since neither a hearing officer nor the Commission considers the request. In addition, resolution of requests at the staff level can be less burdensome on the participants, since there is no need for appearances at hearings.

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in the Subpart J procedures governing appeals from Department of Energy orders in Order No. 422 issued today which will also be applicable in appeals from staff orders. These include (1) modification of the procedures for obtaining confidential treatment of information and (2) altering the filing deadlines for replies to petitions for review, requests for hearing, and requests to raise new facts and issues.

[3] Procedures for Adjustments of Rules and Orders Issued by the Federal Energy Regulatory Commission Under the NGPA, 44 FR 18961 (Mar. 30, 1979) (Order No. 24) (*codified at* 18 CFR § 1.41; *recodified at* 18 CFR Part 385, Subpart K, in 47 FR 19,014 (May 3, 1982)).

[4] Procedures for Adjustments of Rules and Order issued by the Federal Energy Regulatory Commission under the NGPA, 44 FR 69204 (Dec. 3, 1979) (Order No. 24–A).

[5] Rules of Practice and Procedure; Organization; Operation; Information and Requests, 45 FR 20785 (Mar. 31, 1980) (Order No. 24–B).

[6] 18 CFR 385.1107(b) (1984) (formerly § 1.41(g)(2)).

[7] 18 CFR 385.1111 (1984) (formerly § 1.41(k)).

[8] The Commission has delegated to the General Counsel or his designee the authority to designate presiding officers for adjustment proceedings. 18 CFR 375.309(e) (1984). The adjustment procedures themselves do not specify who shall be appointed presiding officers.

[9] 18 CFR 385.1110(a)(2) (1984) (formerly § 1.41(j)(1)(ii)).

[10] 42 U.S.C. 7194(a) (1982).

[11] Rules of Practice and Procedure for Commission Review of DOE Adjustment Request Denials (Docket No. RM78–17–000) (Order No. 422).

[12] Procedures for Adjustments of Rules and Orders Issued by the Federal Energy Regulatory Commission Under the NGPA, 44 FR 16961, 18,961 (Mar. 30, 1979) (Order No. 24).

[13] Of the 342 adjustment requests filed in fiscal years 1979–1984, only 26, or 7.6%, have resulted in appeals to the Commission and its presiding officer.

Of course, not all adjustment requests can be resolved informally at the staff level. In these cases, it is necessary to provide for appeal to a presiding officer. The appeal accords the applicant its statutory right to the "oral presentation of data, views and arguments." [14] Even when an appeal is taken, however, the staff proceeding generally has served the useful purpose of sharpening the issues and reducing their number.

Nevertheless, the Commission believes that the commenter's concern with expediting consideration of adjustment requests is satisfied by eliminating the provision for the presiding officer to issue a proposed order and for the parties to comment on that order. Experience shows that the proposed order phase of the proceeding is unnecessarily duplicative. Participants have an ample opportunity to present their positions to staff in their pleadings and to the presiding officer through their briefs and at oral argument. They are, therefore, in no way prejudiced by not having yet another opportunity to argue their respective positions through comments on a proposed order. In addition, elimination of the proposed order phase significantly expedites the proceedings by saving the time that would be needed to draft a proposed order and by eliminating the fifteen-day comment period.

The Commission also notes that these procedural steps are not required by section 502(c) of the NGPA. Nor will their elimination violate the Administrative Procedure Act,[15] because sections 557 (b) and (c) of the APA requiring initial or recommended decisions and an opportunity to submit exceptions thereto do not apply to adjustment proceedings. Specifically, section 557 only applies to formal trial-type hearings that are "required by statute to be determined on the record after opportunity for an agency hearing."[16] Section 502(c) of the NGPA does not require trial-type hearings. In that section, Congress required only that the Commission provide an opportunity for the "oral presentation of data, views and arguments." With the exception of the requirement of an opportunity for oral presentation, this provision tracks the requirements of section 553 of the APA concerning the opportunity to comment which must be given in a rulemaking proceeding in which no trial-type hearing is required.[17] Congress' choice of the same "data, views, and arguments" language used in section 553 of the APA could not have been by accident and clearly demonstrates its intent that hearings under NGPA section 502(c) not be trial-type hearings.[18]

Section 502(c)'s requirement of an opportunity for oral presentation does not alter this conclusion. Oral, instead of written, presentation of data, views, and arguments does not imply a change in the nature of what is being presented or suggest that such aspects of a trial-type hearing as cross-examination are required. Congress also required in NGPA section 502(b) that the Commission grant an opportunity for oral presentation of data, views and arguments whenever possible in rulemaking proceedings, but trial-type hearings are not required in those proceedings.

As previously noted, the provision for the presiding officer to issue a proposed order and for the participants to comment on it is set forth in Subpart J of Part 385 governing appeals from orders issued by the Secretary of Energy under section 504(a) of the DOE Organization Act.[19] The Commission is amending these procedures to eliminate the provision for a proposed order and comments thereon in a separate order concerning the procedures under Subpart J.[20] Accordingly, this order does not amend the regulatory language.

B. Definition of Adjustment

The interim procedures define "adjustment" as a staff order granting relief from an order or rule issued under the NGPA, but exclude from the definition requests for just and reasonable rates under sections 104, 106, and 109 of the NGPA.[21] Commenters have raised several concerns about this definition. One commenter urges the Commission to state that an adjustment is not available to obtain rates in excess of the NGPA Title I ceiling prices. The commenter observes that only NGPA sections 104, 106, and 109, gave the Commission authority to establish prices in excess of NGPA ceiling prices by authorizing requests for just and reasonable rates and notes that the Commission specifically excluded these requests from the definition of adjustment. On the other hand, other commenters request that the Commission expressly state that rate relief from Title 1 ceiling prices is available through a section 502(c) adjustment. These commenters assert that section 502(c) permits adjustment from any section of the NGPA other than sections 301, 302, and 303. Those sections give the President emergency authority, first, to authorize pipelines and their distributors to contract for emergency supplies of natural gas and, second, to allocate natural gas supplies.

In addressing this issue previously, the Commission held that section 502(c) gives it authority to grant adjustments only from rules and orders issued under the NGPA, not form the provisions of the NGPA.[22] Upon further review, the Commission concludes that the commenters failed to present any new information or arguments that would justify a change of this conclusion.

Some commenters express concern that the Commission has failed to provide procedures for making requests for just and reasonable rates under NGPA sections 104, 106, and 109 by excluding these requests from the definition of adjustment. Commenters request that the Commission either establish separate procedures to make requests for just and reasonable rates under NGPA sections 104, 106, and 109 or modify the definition of adjustment to include such requests.

Since the comments were filed, the Commission has stated that it would entertain producers' petitions for higher rates under NGPA sections 104, 106, and 109 on a case-by-case basis and that such petitions should be filed pursuant to Rule 207 of the Commission's Rules of Practice and Procedure.[23] The Commission believes that this procedure should allay any concern that the Commission has failed to provide a method for producers to obtain higher rates under NGPA sections 104, 106, and 109 or that the Commission is effectively declining to grant such rates by excluding requests for such higher rates from its adjustment procedures.

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[14] Section 502(c) of the NGPA, 15 U.S.C. 3412(c) (1982).

[15] 5 U.S.C. 551 *et seq.* (1982).

[16] 5 U.S.C. 554(a) (1982). The courts have interpreted this language as meaning that APA trial-type hearings are required only where the statute governing the agency's action requires such a trial-type hearing. Seacoast Anti-Pollution League v. Costle, 572 F.2d 872, 876–77 (1st Cir.), *cert. denied*, 439 U.S. 824 (1978). Buttrey v. United States, 690 F.2d 1170, 1175–76 (5th Cir. 1982), *cert. denied*, 461 U.S. 927 (1983).

[17] Section 553(c) states that "an agency shall give interested persons an opportunity to participate in the rule making through submission of written *data, views, or arguments* with or without opportunity for oral presentation" (emphasis supplied).

[18] *See* Buttrey v. United States, 690 F.2d at 1175–1176.

[19] *See* §§ 385.1010 (a) and (c) (1984).

[20] Rules of Practice and Procedure for Commission Review of Adjustment Request Denials (Docket No. RM78–17–000) (Order No. 422).

[21] 18 CFR 385.1102(a) (1984) (formerly § 1.41(b)(1)).

[22] M. H. Marr, 16 FERC ¶ 61,118 at 61,271–73 (1981).

[23] Order Terminating Rulemaking and Repealing Special Relief Regulations, 49 FR 21,910 (May 23, 1984) (issued May 8, 1984).

When the Commission established the procdures for requesting higher rates under NGPA sections 104, 106, and 109, it declined to delineate the precise standards it will use to determine when a special relief rate is appropriate or what costs can be included in the special relief rate, stating that these matters are best developed in individual cases. The Commission also stated that it is not inclined to grant a special relief rate if there is any other NGPA pricing relief available. For the reasons stated in the previous order, the Commission continues to adhere to these positions.

C. Definition of Staff

The interim procedures define "staff" as the Director of the Office of producer and Pipeline Regulation "or a person who is designated by the Director." [24] One commenter objected to the provision for the Director to designate another person to act in his place. The commenter stated that only the Director should be empowered to grant or deny adjustments so as to ensure expertise and consistency in rendering adjustment decisions. The Commission sees no reason to change the staff definition. The Director should have the flexibility to designated another Commission employee to act in his place, for example, when he is unavailable. The Commission is confident that the Director will designate an employee with the necessary expertise.

D. Availability of Other Relief

One commenter observed that there are many situations in which other relief may be available without the need for adjustment relief. For example, appeals from well category determinations under NGPA section 503, recovery of production-related costs pursuant to NGPA section 110, and curtailment relief procedures under 18 CFR 2.78(b) are alternative forms of relief that can negate the need for adjustment. One commenter requests that the Commission state that adjustment relief is only available when there is no other procedure by which the petitioner could obtain the same relief. The commenter also suggests that the Commission require petitioners to state in their initial petitions for relief that no other avenue of relief is available to them.

The Commission agrees that adjustment relief should be granted only when no other form of relief is available. Adjustment relief is intended as an extraordinary remedy only to be granted where necessary to prevent a special hardship, inequity, or an unfair distribution of burdens caused by a rule or order issued under the NGPA.[25] Accordingly, the interim procedures already effectively provide that adjustment relief can be granted only when no other form of relief is available through their requirement that staff must find that such relief is necessary to prevent special hardship, inequity, or an unfair distribution of burdens before granting an adjustment. Specifically, where the NGPA or regulations adopted under it provide relief without the need for obtaining any adjustment, then a finding of the requisite hardship or inequity caused by the regulations cannot be made and no adjustment can be granted.

Although suggested by commenters, the Commssion does not believe that it is necessary, in order to enforce this requirement, to require a statement in the initial petition for adjustment relief that no other form of relief is available and why. Parties have not filed petitions for adjustment relief when other forms of relief are available because the standards for granting adjustment relief are so stringent. Hence, if there is another form of relief available, that relief would be easier to obtain. Accordingly, since the filing of requests for adjustment when other relief is available has not proven to be a problem, there is no need to complicate the requirements for an adjustment by requiring the suggested statement.

E. Service by Petitioner

The interim procedures generally require petitioners to serve a copy of the petition on each person who may suffer direct and measurable economic impact if relief is granted.[26] If a petitioner finds that giving such notice is impracticable, however, he may serve those persons whom it is practicable to serve and include in the petition a description of those persons or the class of persons to whom notice was not sent.[27] In such circumstances, the procedures state that staff may require "alternate or additional service and will cause notice of the application to be published in the **Federal Register**." [28]

One commenter is concerned that these provisions fail to relieve petitioners of the expense of serving a large number of persons affected by a grant of relief. The commenter requests that the Commission deem publication in the **Federal Register** an appropriate alternate service when service by mail would be unduly difficult or expensive.

The Commission is not adopting this recommendation because staff may, under the current rules, permit service by publication in the **Federal Register** in appropriate cases. For this reason, the Commission believes that the interim procedures now give staff sufficient flexibility to provide petitioners relief from unduly burdensome service requirements while protecting the rights of affected parties to receive notice of petitions.

F. Staff Evaluation of Adjustment Requests

1. An Informal Proceeding

The initial proceeding before staff is intended as an informal procedure to resolve adjustment requests based essentially on the pleadings and any additional information requested by staff and without resort to a full scale adjudicatory proceeding. Accordingly, no hearing, cross-examination, or discovery is permitted. Nor do the interim procedures expressly require staff either to advise participants other than the petitioner of information it obtains as a result of investigations [29] or requests for information from third parties [30] or give those participants an opportunity to comment on the information obtained. Some commenters suggest permitting a hearing and discovery in staff proceedings and requiring staff to provide all parties copies of all additional information it obtains and an opportunity to comment on this information.

The Commission believes that these provisions of the interim procedures should not be altered. To permit hearing, cross-examination, and discovery would defeat the objective of providing an opportunity to resolve adjustment requests without a time-consuming adjudicatory proceeding and transform the staff proceeding into the type of proceeding that the Commission seeks to avoid. In addition, the Commission believes that modification of the informal stage of the proceeding is unnecessary because an aggrieved person already has an opportunity to appeal the staff decision to the Commission. On appeal, participants may request a hearing and discovery and comment on any additional information relied on by staff. Moreover, while the interim procedures do not

[24] 18 CFR 385.1102(f) (1984) (formerly § 1.41(b)(7)).

[25] Houston Oil & Minerals Corp., 20 FERC ¶ 62,358 (1982).

[26] 18 CFR 385.1104(b)(1) (1984) (formerly § 1.41(d)(2)(i)).

[27] 18 CFR 385.1104(b)(2) (1984) (formerly § 1.41(d)(2)(ii)).

[28] 18 CFR 385.1104(b)(3) (1984) (formerly § 1.41(d)(2)(iii)).

[29] 18 CFR 385.1107(b)(1) (1984) (formerly § 1.41(g)(2)(i)).

[30] 18 CFR 385.1107(b)(3) (1984) (formerly § 1.41(g)(2)(iii)).

require staff to give participants other than the petitioner an opportunity to comment on additional information, those procedures do not prohibit staff from giving such an opportunity. Staff requests for additional information under § 385.1107(b) are served on all participants, and responses thereto (except to the extent they contain confidential information) are part of the public record of the case available to all participants. Any participant desiring to comment on such information in the staff proceeding may file a motion to do so pursuant to 18 CFR § 385.1114 (1984).

2. The Record

One commenter requests that the Commission amend the rule to specify that a record will be compiled and that staff's evaluation will be based on the record. This change is unnecessary because staff must already base its evaluation of the adjustment request on the filings made in connection with the petition for adjustment and on information obtained from the petitioner and third parties.[31] All this material is presently included in the record reviewed by the presiding officer and will continue to be.

a. *Information Solicited From the Petitioner.* Characterizing it as "overkill," commenters criticize staff's authority to initiate an investigation of any statement in a petition and to use in its evaluation any relevant fact obtained during an investigation. Their concern is that staff will burden the petitioner with extensive requests for information. As an alternative, commenters state that if the petitioner fails to supply necessary information in the petition, then staff should dismiss the application without prejudice.[32]

Provision for staff to obtain additional information is appropriate. Commenters' concerns are apparently based, in part, on a misunderstanding concerning the nature of the staff investigation permitted by these procedures. The investigation is solely for the purpose of obtaining additional information with respect to the adjustment request. Staff is not permitted to initiate an investigation unrelated to the merits of the adjustment request. In addition, petitions for adjustment generally do not contain all the information necessary for evaluating the adjustment request, since the regulations do not describe in detail the information necessary to support an adjustment request. But, the alternative of describing the information needed to support an adjustment request is impracticable given the variety of situations for which adjustments may be requested. Consequently, the Commission believes it is more efficient for staff to request the specific additional information necessary for the particular case rather than requiring petitioners to attempt to guess the information staff needs when they refile their petition.

b. *Information Solicited from Third Parties.* Some commenters also criticize staff's authority to solicit information from third parties. The commenters state that third parties who are interested in a proceeding should intervene. Staff, they said, should not seek out parties who have expressed no interest in the proceeding. Commenters have also mischaracterized staff's role in these proceedings. Staff merely has authority to obtain that information necessary for a full and reasoned decision on the adjustment request. It is not seeking new parties to the proceeding. Only if information necessary for a decision is in the hands of third parties will staff be able to seek it.

G. Dismissal for Lack of Necessary Information

During consideration of adjustment requests, staff may request information from the petitioner.[33] If staff has requested additional material information and the petitioner has failed to provide the requested information, staff may deny the petition for adjustment.[34] Some commenters contend that this provision should be modified to provide that such denial may occur only where the material information was not reasonably available to the applicant. The Commission knows of no instance in which staff has exercised its discretion to deny a petition because of a petitioner's failure to provide information which was not reasonably available to it. Accordingly, in order to conform the adjustment procedures to existing practice, the Commission amends § 385.1108(b) in the manner suggested by the commenters.

H. Time for Staff Review

A petitioner may treat the petition as denied if staff has failed to act on an adjustment petition within 150 days of its filing.[35] Staff, however, may extend the 150-day period for good cause. One commenter suggests that the Commission permit parties to appeal any extension of the period to the Commission. Other commenters requested that the 150-day period be shortened considerably.

The Commission has decided to retain the 150-day period. That period generally provides staff sufficient time in which to analyze adjustment requests while requiring a prompt decision. The Commission, however, directs staff to make every effort to issue orders within the 150-day period. In addition, the Commission sees no need to permit parties to appeal a staff decision to extend the period to the Commission as several commenters requested. The Commission believes that staff will extend the period only where justified by the circumstances of a particular case.

I. Confidential Information

Under the interim procedures, any person may request confidential treatment of information filed with the Commission, if the information is exempt from the mandatory disclosure requirements of the Freedom of Information Act (FOIA) [36] or is otherwise exempt by law from public disclosure.[37] The interim procedures do not expressly provide other parties a method to obtain access during the staff proceedings to information exempt from disclosure under the FOIA or other law.[38] One commenter requests that the Commission establish in the adjustment procedures a method by which a party could obtain access to confidential information during the staff proceeding, if that party agrees not to disclose the information or use it except in the context of the adjustment proceeding and agrees to return the information once the proceeding ends.[39]

This amendment is unnecessary since parties may obtain access to confidential information in the staff proceeding under the existing procedures. Although the adjustment procedures do not expressly provide for such access, parties may file motions under § 385.212 for access to confidential information, and staff may grant those motions subject to appropriate conditions such as those suggested by the commenter. In addition, any party who wishes to obtain information supplied on the basis

[31] 18 C.F.R. § 385.1107(b) (1984).

[32] 18 C.F.R. § 385.1108(b) (1984) (formerly § 1.41(h)(2)).

[33] 18 CFR 385.1107(b) (1984) (formerly § 1.41(g)(2)).

[34] 18 CFR 385.1108(b) (1984) (formerly § 1.41(h)(2)).

[35] 18 CFR 385.1109(b) (1984) (formerly § 1.40(i)(3)).

[36] 5 U.S.C. 552 (1982).

[37] *See*, for example, 18 U.S.C. 1905 (1982).

[38] 18 CFR 385.1112 (1984) (formerly § 1.41(1)).

[39] There is an express provision for parties to obtain access to confidential information during the proceeding conducted by the presiding officer under such conditions. 18 CFR 385.1003(e) (1984). Although Order No. 422, concerning the procedures in Subpart J, also issued today, makes certain changes in § 385.1003, it does not substantively change the terms under which other parties may obtain access to confidential information.

of confidentiality may always request that information under the FOIA.

One commenter suggests that when a document for which a party has requested confidential treatment is about to be disclosed, the party should be permitted to withdraw the document rather than permit its disclosure, even if such withdrawal weakens his case. The Commission's Rules of Practice and Procedure already permits a party to file a motion to withdraw any filing.[40] Accordingly, the Commission sees no need to amend § 385.1112 to provide specifically for a right to withdraw a confidential filing in the context of a denial of confidential treatment.

J. Interim Relief

The interim procedures provide that a petitioner may request interim relief. Relief may be granted upon: (1) A showing of irreparable injury causing more immediate hardship or inequity to the petitioner than a grant of relief would cause other persons or (2) a showing that a grant of relief will be in the public interest.[41] The ABA recommends that the Commission always require petitioners to make the additional showing that relief is in the public interest before obtaining relief. The ABA also suggests modifying the standard to consider the petitioner's likelihood of success on the merits.

While staff grants interim relief based solely on a showing of irreparable injury without regard to the petitioner's likelihood of success on the merits or the effect on the public interest, experience has shown that grants of interim relief in NGPA adjustment cases generally do not adversely affect the public interest. Staff has generally granted such requests without apparent adverse effect or complaints from other parties.[42] Moreover, other provisions of the interim procedures ameliorate any problem which might arise under the existing standard because staff does not consider the petitioner's likelihood of success on merits. Specifically, the Commission on its own motion can revoke or modify grants of interim relief[43] and may waive the interim relief standards.[44] Accordingly, the Commission may revoke staff grants of interim relief on grounds that interim relief was against the public interest or the applicant has little likelihood of success on the merits.

The interim procedures provide that no appeals to the Commission from staff action are permitted except from staff's final decision whether to grant or deny an adjustment.[45] Some commenters seek procedures for an interlocutory appeal to the Commission from a staff order granting or denying interim relief.[46] The Commission does not believe that permitting interlocutory appeals from interim relief orders is necessary, since the procedures already permit the Commission to revoke or otherwise modify grants of interim relief on its own motion.[47] As already stated, the fact that interim relief may be granted solely on the basis of irreparable harm means that staff generally grants requests for such relief. Accordingly, applicants for interim relief have little need for an interlocutory appeal. Similarly, there appears to be little need for interlocutory appeals from grants of interim relief, because grants do not generally cause irreparable harm. Also, parties may always request the Commission to exercise its option to review grants of interim relief on its own motion. In addition, since staff would have to devote time to defending its decision on the interim relief request before the Commission, allowing interlocutory appeals would slow staff's disposition of the adjustment request on the merits.

Any request for interim relief not acted on by staff within thirty days is denied.[48] One commenter proposes reducing the thirty-day time period to ten days. The Commission has decided not to adopt this proposal. Generally, ten days would not be sufficient time to decide a request for interim relief, particularly in light of the necessity of giving other persons an opportunity to reply to the request. In any event, thirty days is the maximum, not the minimum, time period before denial. If a petitioner shows that a request must be acted on in less than thirty days to avoid irreparable harm, staff should do so.

K. Proceedings Before the Presiding Officer

The ABA proposes that administrative law judges be appointed as presiding officers to issue proposed orders on appeals to the Commission instead of Commission staff attorneys.[49] The ABA states that ALJ's are generally more experienced conducting hearings, have more knowledge concerning the gas industry, and are more independent than Commission staff attorneys. The Commission does not adopt the ABA's proposal. The Commission's six years of experience in using staff attorneys as presiding officers demonstrates that those attorneys are sufficiently experienced and capable to handle these appeals skillfully and with dispatch.

Some commenters object to the provision of the interim procedures restricting interventions under Rule 1005 of Subpart J[50] in the appeal proceeding to those who filed motions to intervene in the staff proceeding which were wrongly denied. Without this restriction, Rule 1005 would permit intervention by persons aggrieved by the staff order, regardless of whether they had sought to intervene in the staff proceeding.[51] The commenters stated that the nature of the interests at stake in the proceeding might not become clear until after the staff's initial decision was issued. Accordingly, persons might not know they would be adversely affected by an order on an adjustment request until after it was issued, and those persons should be given an opportunity to intervene.

The Commission amends the provision of the interim procedures concerning intervention in the appeal proceeding to clarify that persons who did not intervene in the staff proceeding may file motions for late intervention under Rule 214(d).[52] Thus, persons who did not know that they were affected by a request for adjustment until after the initial decision may seek late intervention if there is good cause to intervene late and there is no prejudice.

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[40] If the filing is a pleading, the party may file a notice of withdrawal pursuant to 18 CFR 385.216 (1984) which will become effective after fifteen days if no motion in opposition is filed and the decisional authority has not disallowed withdrawal. Otherwise, the party may file a motion to withdraw the filing pursuant to 18 CFR 385.212 (1984).

[41] 18 CFR 385.1113(b)(1) (1984) (formerly § 1.41(m)(2)).

[42] The Commission notes that a grant of interim relief does not mean that a permanent adjustment will be granted. Grants of interim relief are simply a means of avoiding a change in circumstances such that effective relief cannot be granted when a determination on the merits of a request for adjustment is reached.

[43] 18 CFR 385.1113(f)(2) (1984) (formerly § 1.41(m)(6)(ii)).

[44] 18 CFR 385.1101(b)(2) (1984).

[45] 18 CFR 385.1116 (1984) (formerly § 1.41(p)).

[46] *See* 18 CFR 385.715 (1984) (governing interlocutory appeals).

[47] 18 CFR 385.1113(f)(2) (1984) (formerly § 1.41(m)(6)(ii)).

[48] 18 CFR 385.1113(e) (1984) (formerly § 1.41(m)(5)).

[49] Attorneys in the Office of Opinions and Review originally acted as presiding officers for these cases. *See* 18 CFR 375.310, as in effect before September 15, 1984. Beginning September 15, 1984, when the Office of Opinions and Review was abolished, presiding officers have been attorneys in the Office of General Counsel. 18 CFR 375.309, effective September 15, 1984.

[50] 18 CFR 385.1005 (1984).

[51] 18 CFR 385.1110(a)(3) (1984) (formerly § 1.41(j)(1)(iii)). Those who were parties in the staff proceeding may participate in the appeal proceeding without filing a motion to intervene.

[52] 18 CFR 385.214(d) (1984). The Commission is also correcting a typographical error in § 385.1110(a)(3).

The Commission observes, however, that, as a general matter, late intervenors in adjustment cases may raise new facts and issues only as provided in the adjustment procedures.[53] The Commission notes that a late intervenor generally must accept the record of the proceeding as developed prior to the late intervention except as otherwise ordered.[54] This is particularly true when an intervenor intervenes after an initial staff decision in an adjustment proceeding. Commission review of the staff decision is intended to be just that, not a *de novo* decision on the adjustment request. If late intervenors had the right to raise new facts and issues, the proceeding would no longer be purely a review proceeding.

Finally, one commenter asserts that any staff member who expressed a judgment or opinion concerning the staff's order on the adjustment request should be prohibited from advising the Commission concerning the review of that order. The interim procedures, as originally adopted, prohibited the person who decided to grant or deny the adjustment and any person who acted as staff counsel or a witness from advising the Commission. The Commission amended this provision, however, in its order issued March 24, 1980, to delete the prohibition on the person who issued the staff order from advising the Commission.[55] The Commission noted that that prohibition excluded the Director of OPPR or his designee from advising the Commission and stated that such a prohibition was unnecessary, since the staff proceeding is an informal one. For the same reason, the Commission believes that other staff members should not be excluded from advising the Commission simply because they expressed an opinion concerning the initial decision issued by the Director or his designee.

As previously stated, the interim procedures provide that the provisions of Subpart J of Part 385 governing appeals from orders issued by the Secretary of Energy under section 504(a) of the DOE Organization Act [56] apply to Commission review of staff orders on NGPA adjustment requests except as otherwise provided. In Order No. 422 also issued today, the Commission is amending Subpart J by: (1) Modifying the procedures for obtaining confidential treatment of information, (2) changing the filing deadlines for replies to petitions for review, requests for hearing, and requests to raise new facts and issues, and (3) replacing the requirement that the Department of Energy (DOE) file the entire administrative record with a requirement that parties submit as appendices to their pleadings the parts of the record on which they rely.[57] There is no reason for the first two changes not to apply to Commission review of staff orders on adjustment requests under NGPA section 502(c). The grounds cited by the Commission for making those changes apply equally in the context of Commission review of staff orders as to Commission review of DOE orders. However, the third change is not appropriate for application in proceedings reviewing staff orders on NGPA section 502(c) adjustment requests. The Commission is modifying Subpart J to require parties to include relevant parts of the record as appendices to their pleadings in order to relieve DOE of the burden of reproducing the entire administrative record. However, in appeals from staff orders the entire record of the staff proceeding is already before the Commission in any event, since all filings in the staff proceeding must be filed with the Commission during the course of that proceeding. Accordingly, there is no need to require that any part of the record of the staff proceeding be filed with the Commission upon appeal from the staff order either through requiring staff to file the entire record or parties to file relevant portions of the record. Therefore, the Commission is amending the interim procedures to provide that the provisions of Subpart J concerning filing of the record do not apply to appeals from staff orders. The present requirement that the complete record be filed with the Commission upon appeal from such orders is replaced with a requirement that staff file a list identifying all documents in the record.

L. Waiver of the Adjustment Procedures

In its order issued December 3, 1979, the Commission amended the interim procedures to provide that those procedures do not apply to proceedings in which the Commission grants an adjustment on its own motion or proceedings in which it waives those procedures.[58] The Commission explained that it reviews and acts upon a number of diverse filings under the regulations implementing the NGPA and that on occasion those filings make the Commission aware of circumstances requiring remedial or other corrective action. Also, the Commission noted that it sometimes receives petitions which do not comport with the filing requirements set forth in the interim procedures and are not amenable to treatment under those procedures. The Commission stated that the amendment to the interim procedures was necessary to give the Commission the flexibility to deal with these situations.[59]

Some commenters complain generally that the Commission failed to specify the procedures for granting an adjustment on its own motion or for waiving the adjustment procedures. In addition, one commenter criticizes the failure to provide for notice and intervention in cases where the Commission grants an adjustment on its own motion. Similarly, the ABA requests that whenever the Commission waives the adjustment procedures it issue a statement explaining how the procedural rights of the parties and the public, such as the right to a hearing, have been adequately protected by the procedures used.

The Commission does not believe that it would be appropriate or practicable to specify the procedures it will use in cases when it exercises its discretion to grant an adjustment on its own motion or to waive the adjustment procedures. The whole purpose of this section is to give the Commission flexibility to deal with unusual situations not covered by the procedures. It is not possible to anticipate what these unusual situations will be and what procedures will be necessary to deal with these situations. The Commission notes, however, that it will provide "an opportunity for oral presentation of data, views, and arguments" in adjustment proceedings, as required by NGPA section 502(c).

M. Other Matters

Three other issues raised by commenters merit discussion. One commenter requests that the Commission reduce the time needed to

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[53] 18 CFR 385.1007(b) (1984).

[54] 18 CFR 385.214(d)(3)(ii) (1984).

[55] Rules of Practice and Procedure; Organization; Operation; Information and Requests, 45 FR 20,785 (Mar. 31, 1980) (Order No. 24–B).

[56] 42 U.S.C. 7194(a) (1982).

[57] These changes are in addition to the elimination of the proposed order phase of the proceeding described earlier.

[58] Procedures for Adjustments of Rules and Orders Issued by the Federal Energy Regulatory Commission Under the NGPA, 44 FR 69284 (Dec. 3, 1979) (Order No. 24–A) (*codified at* 18 CFR 385.1101(b) (1984) (formerly § 1.41 (a)(2))).

[59] One commenter requested that the Commission state that § 385.1101(b) permits the Commission to waive the adjustment procedures so as to treat as a properly filed adjustment request both (1) a document clearly intended as such a request but failing to meet the technical requirements of the adjustment procedures and (2) a document seeking other than adjustment relief but which the Commission desires to treat as an adjustment request. The above discussion makes clear that section 1101(b) does permit the Commission to so treat both the described documents.

notice an adjustment request in the **Federal Register** by directing the Secretary of the Commission to give priority to notices of adjustment petitions over notices of other proceedings. While the Commission believes that the Office of General Counsel and the Secretary should notice adjustment petitions as soon as possible, it sees no justification for giving such priority to noticing those petitions since adjustments are already noticed as soon as practicable.

Second, another commenter requests written notice of ten or more days or, alternatively, telephone notice four or more days, in advance of a conference. The Commission directs staff to give parties adequate notice of conferences but believes it best to leave the exact type of notice to the discretion of staff. There may be instances when the particular circumstances of the case would justify giving less notice than recommended by the commenter.

Third, one commenter questions the need to provide a different time for intervention for those served who receive notice via publication in the **Federal Register** as opposed to those who are specifically served. The Commission has already addressed this problem. Order No. 24–B requires all petitions to intervene to be filed within fifteen days after publication in the **Federal Register** of the petition for adjustment.[60]

Finally, the Commission in this order corrects typographical errors in §§ 385.1107(b)(1) and 385.1113(f)(1) of the adjustment procedures which occurred when the procedures were recodified.

IV. Paperwork Reduction Act Statement

The Paperwork Reduction Act (PRA), 44 U.S.C. 3501–3520 (1982), and the Office of Management and Budget's (OMB) regulations, 5 CFR 1320.12 (1984), require that OMB approve certain information collection requirements imposed by an agency. The information collection requirements provided for in this rulemaking do not require OMB approval because this information is being collected as part of an adjudicatory proceeding within the meaning of the PRA and OMB's regulations, 44 U.S.C. 3518(c)(1)(B) (1982), 5 CFR 1320.3(c) (1984). Therefore, the information requirements imposed by this rule are not being submitted to OMB for review or approval.

V. Effective Date

This rule will become effective as a final rule June 27, 1985.

List of Subjects in 18 CFR Part 385

Administrative practice and procedures.

In consideration of the foregoing, Subpart K, Part 385, Chapter I, Title 18, Code of Federal Regulations, is finalized and amended as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 385—[AMENDED]

1. The authority citation for Part 385 continues to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1982); Executive Order No. 12,009, 3 CFR 142 (1978); Administrative Procedure Act, 5 U.S.C. 551–557 (1982); Independent Offices Appropriations Act, 31 U.S.C. 9701 (1982); Natural Gas Act, 15 U.S.C. 717–717w (1982); Federal Power Act, 16 U.S.C. 791a–828c (1982); Natural Gas Policy Act, 15 U.S.C. 3301–3432 (1982); Public Utility Regulatory Policies Act, 16 U.S.C. 2601–2645 (1982); Interstate Commerce Act, 49 U.S.C. 1–27 (1976), unless otherwise noted.

§ 385.1107 [Amended]

2. In § 385.1107, paragraph (b)(1) is amended by removing the words "of any relevant fact" and inserting, in their place, the words "any relevant fact".

§ 385.1108 [Amended]

3. In § 385.1108, paragraph (b) is amended by removing the words "Staff may deny the petition" and inserting, in their place, the words "Staff may deny the petition if the requested information was reasonably available to the petitioner".

4. Section 385.1110 is amended by adding a new paragraph (a)(2)(iii) to read as follows:

§ 385.1110 Review of initial decision and order for adjustment (Rule 1110).

(a) *General Rule.* * * *

(2) * * *

(iii) Within 15 days of service of the petition for review, Staff must file with the Commission a list identifying each document in the record developed in the prior proceedings on the contested order, who filed the document, and the date it was filed.

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5. Section 385.1110(a)(2) introductory text is amended by removing the words "the provisions of Subpart J" and adding, in their place, the words "the provisions of Subpart J other than Rule 1013 (attachments to pleadings)".

6. Section 385.1110(a)(2)(ii) is amended by removing from the third sentence the words "except to the extent necessary to file the record as prescribed in Rule 1005(a)(1) (replies in reviews of adjustment denials)" and adding, in their place, the words "except to the extent necessary to file the list identifying the documents in the record as prescribed in paragraph (a)(2)(iii)".

7. Section 385.1110(a)(3) is amended by removing the words "Rule 1005(b)" and inserting, in their place, the words "Rule 1005(c)" and by adding at the end the sentence, "A person who did not file a motion to intervene in the Staff proceeding may file a motion for late intervention under Rule 214(d) (grant of late intervention)".

§ 385.1113 [Amended]

8. In § 385.1113, paragraph (f)(1) is amended by removing the words "under paragraph (f)(1) of this section" and inserting, in their place, the words "under Rule 1109 (orders)".

[FR Doc. 85–12560 Filed 5–24–85; 8:45 am]

BILLING CODE 6717–01–M

[60] Rules of Practice and Procedure; Organization; Operation; Information and Requests, 45 FR 20785 (Mar. 31, 1980).

18 CFR Part 385

[Docket No. RM78-17-000, Order No. 422]

Rules of Practice and Procedure for Commission Review of DOE Adjustment Request Denials

Issued: May 23, 1985.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is making final with several modifications its interim procedural rules governing Commission review of the Department of Energy's (DOE) denials of requests for adjustments from DOE's Mandatory Petroleum Price and Allocation Regulations, 18 CFR Part 385, Subpart J (1984). The Commission is modifying the rules concerning nondisclosure of information, is providing DOE five additional days within which to file a reply to the petition for review, is setting deadlines for the filing of requests for hearing and requests for permission to raise new facts and issues, is relieving DOE of the responsibility of filing its entire administrative record in every case, and is eliminating the proposed order and comment stages of the proceeding.

EFFECTIVE DATE: This rule will become effective June 27, 1985.

FOR FURTHER INFORMATION CONTACT: Roland M. Frye, Jr., Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol St., NE., Washington, D.C. 20426, (202) 357-8315.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Raymond J. O'Connor, Chairman; A.G. Sousa, Oliver G. Richard III, and Charles G. Stalon.

I. Introduction

The Federal Energy Regulatory Commission (Commission) is amending certain portions of 18 CFR Part 385, Subpart J, its procedural rules governing appeals of denials by the Department of Energy (DOE) of adjustment relief from DOE's mandatory petroleum price and allocation regulations (MPPR).[1] These amendments will both reduce the burdens on the participants in such appeals and help expedite the proceedings.

II. Background

Section 504(a) of the Department of Energy Organization Act [2] requires DOE to provide for the making of such adjustments to the MPPR as may be necessary to prevent special hardship, inequity or unfair distribution of burdens. Section 504(b)(1) [3] permits any person aggrieved or adversely affected by a denial by DOE of an adjustment request to appeal the denial to the Commission. Section 504(b)(2) [4] requires the Commission to establish the appropriate procedural rules for the review of adjustment request denials. On August 8, 1978, the Commission issued interim procedural rules [5] governing its review of the DOE's denial of requests for adjustments from such regulations. The Commission received written comments concerning these rules from nine companies, two trade associations and DOE.[6] After reviewing these comments and taking into account the Commission's six years of experience in reviewing DOE adjustments, the Commission concludes that the interim rules should be made final with the changes discussed below. This rulemaking establishes these procedural rules in final form.

III. Summary and Comment Analysis

Subpart J generally sets forth the procedural rules governing the disclosure of proprietary information, pleadings, hearings, burden of proof, duties of the presiding officer, orders, and *ex parte* communications in appeals from DOE adjustment request denials. Commenters are most concerned about disclosure of proprietary information to third-party participants and the extent of the Commission's review of the DOE proceedings. They also express reservations regarding the scope of the Commission's jurisdiction, various filing deadlines, the burden of proof, standards for third-party participation, and several other matters. Although the final rule is in most respects the same as the interim rule, the Commission is modifying the procedures in some respects in response to comments and in accord with its experience administering the provisions.

A. Scope

The interim rule (§ 385.1001) identifies Subpart J as applicable to appeals of DOE denials of adjustment requests. One commenter contends that the regulation is couched in narrower language (review of "orders * * * denying * * * requests for adjustment") than that of the enabling statute, the Department of Energy Organization Act (review of "denial of a request for adjustment" to "any rule, regulation or order"). However, this difference is insubstantial because the means by which DOE has chosen to deny adjustments is the issuance of orders.[7] Several other firms comment that the Commission has jurisdiction to review grants (as well as denials) of adjustment relief. The Temporary Emergency Court of Appeals expressly rejected this argument in *Texaco, Inc.* v. *DOE*.[8]

Another commenter indicates that the regulations are unclear as to whether the Commission will review only the application of the DOE's standards for adjustment relief or whether it will also review the standards themselves. These regulations are not ambiguous. Section 385.1001(a) clearly states that Subpart J applies to proceedings in which the Commission "review[s] orders * * * denying * * * requests for adjustments" (emphasis added). It in no way indicates that the Commission will review the DOE's standards for granting adjustment relief. This section accurately spells out the limitation placed on the Commission's jurisdiction by section 504(b)(1) of the Department of Energy Organization Act which grants the Commission jurisdiction to review *only* a "denial of a request for adjustment." [9]

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[1] 10 CFR Parts 210-212 (1981). On January 28, 1981, the President of the United States exempted crude oil and petroleum products from the MPPR. 46 FR 9909 (Jan. 30, 1981). However, requests for adjustments from the regulations for periods prior to deregulation are still pending before both DOE and the Commission.

[2] 42 U.S.C. 7194(a) (1982).

[3] 42 U.S.C. 7194(b)(1) (1982).

[4] 42 U.S.C. 7194(b)(2) (1982).

[5] 18 CFR 1.40 (1981), *as promulgated in* 43 FR 35907 (Aug. 14, 1978), *recodified as* 18 CFR Part 385, Subpart J (1984) *in* 47 FR 19014 (May 3, 1982).

[6] Standard Oil Co. (Indiana), Independent Petroleum Association of America, Southern California Edison Co., Shell Oil Co., Exxon Co. U.S.A., Commonwealth Oil Refining Co., Inc., Lunday-Thagard Oil Co., Kerr-McGee Corp., American Petroleum Institute, Vickers Petroleum Corp., Texaco, Inc., and DOE.

[7] *See generally* 10 CFR Part 205, Subpart D (1984).

[8] 663 F.2d 158 (1980).

[9] 42 U.S.C. 7194(b)(1) (1982).

B. Extent of Commission Review

Under the interim rules (§ 385–1007(b)), petitioners, third parties and DOE are permitted to raise new issues or new facts only upon a showing that the facts or issues were not known or were improperly excluded and are necessary for a full and true disclosure of the facts.[10] Commenters argue that the Commission should review DOE proceedings *de novo* or, alternatively, relax the requirements for raising new facts and issues.

Many commenters argue that the entire appeal proceeding should be a *de novo* review of the DOE proceeding, with few if any restrictions on issues, discovery, evidentiary hearings and cross-examination. The Commission believes that a *de novo* proceeding with the full panoply of procedural rights is neither required nor desirable in every case. Specifically, the Commission's procedures are designed to obtain a record which satisfies due process standards and on which a full and reasoned decision can be based. This record is established in part by the DOE administrative record and in part by the proceeding conducted before the presiding officer. Those portions of the DOE record contested by petitioner or other participants or found inadequate by the presiding officer may be opened for further proceedings before the Commission. In all instances, the presiding officer and the Commission scrutinize the proceeding before DOE in order to arrive at a full and reasoned decision.

The Commission also rejects many commenters' suggestion to relax the requirements for raising facts or issues not previously raised before DOE. The Commission believes that, in the interest of administrative efficiency, the parties should be required to present their case fully before the DOE's Office of Hearings and Appeals, and that the Commission's proceeding should be directed as much as possible to correcting any inequities in the prior proceeding.

In addition, the Commission is adding a filing deadline for requests to raise new facts and issues. Petitioners must file requests simultaneously with their petitions for review. DOE must file requests concurrently with its reply to the petition for review. Third parties must make their requests by the filing deadline set by the presiding officer. Such deadlines will result in proceedings which are more orderly and will provide the parties more procedural certainty.

C. DOE Administrative Record

DOE requests that the filing period for its administrative record be increased from 15 to 30 days. Section 385.1005(a)(1) previously required DOE to file with the Commission within 15 days of service of the petition for review the administrative record developed before the Office of Hearings and Appeals (OHA). The Commission is changing this practice by eliminating this requirement, and is instead requiring the parties to submit as appendices to their pleadings those portions of the DOE record which they rely upon and specifically cite in such pleadings (new § 385.1013). If the portions contain confidential information, the party submitting such documents must submit to the Commission one version including and another version excluding such information, must serve DOE and/or the petitioner with both versions, and must serve any intervenors with the latter version unless the requirements of Rule 1003 (Nondisclosure of information) have been met.

The Commission believes this procedure will not prejudice the interests of the parties. Rather, it will save DOE the time and expense of photocopying the *entire* record in every adjustment appeal. The Commission and its presiding officers will likewise be spared the bulk of material that is unessential in an appellate-type proceeding. The Commission believes that this requirement ensures that all documents crucial to the positions of DOE, the petitioner or any intervenors will be submitted to it on appeal and encourages the parties to comply with the spirit of this limitation to prevent the unnecessary attenuation of these proceedings.[11]

D. Protecting Confidential Information

The Commission has decided to modify the interim procedures for protecting confidential information. Under the final rule (§ 385.1003), information provided by a party is made public unless the party (1) requests the presiding officer not to disclose the information, (2) submits a second copy of the document from which the information which is claimed to be exempt from disclosure has been deleted, (3) indicates in the original document that it contains such exempt information, and (4) submits a statement justifying the withholding of the information under an exemption in the Freedom of Information Act (FOIA),[12] under 18 U.S.C. 1905,[13] or under other law. Except for release under the FOIA,[14] the information provided under these procedures will be disclosed only to the other participants in the proceeding at their request. In addition, the disclosed information will be under the restriction that the participants may not use or disclose the information except in the context of the proceeding conducted under Subpart J and that they must return all copies of the information, at the conclusion of the proceeding, to the party that submitted the information.

The commenters present numerous suggestions on how best to balance the conflicting interests of petitioners and third parties concerning access to confidential information. The Commission believes that the balance is best struck by the final rule's approach of releasing the information to other participants under a protective order, limiting the use of the information to the proceeding conducted pursuant to Subpart J of Part 385, and requiring the return of the information at the conclusion of the proceeding. This is identical to the approach used during appeals of DOE remedial orders.[15]

Finally, one commenter argues that granting third parties an absolute right to see an unexpurgated version of the DOE administrative record even under a protective order violates both the premise of confidentiality upon which

[10] Specifically, the new facts/issues rule states that a party may raise (as of right) facts or issues not previously raised in the DOE proceeding only if such facts or issues (1)(a) were known and could not, with the exercise of due care, have been known to the participant at the time they could have been raised in the prior proceeding, or (b) are facts that the participant was not permitted to raise in the prior proceeding on the contested order due to an adverse procedural ruling alleged to be erroneous, and (2) are necessary for a full and true disclosure of the facts. In addition, the parties may raise new facts and issues at the discretion of the presiding officer.

[11] This approach is consistent with that taken for review of DOE remedial orders. *See* Rules of Practice and Procedure: Commission Review of Remedial Orders, 50 FR 15731 (1985), (Docket No. RM85–2–000) (Order No. 416).

Commenters suggest that the Commission should accept only those portions of the DOE administrative record which are either admissible under the Federal Rules of Evidence or stipulated admissible by the parties. The Commission rejects this suggestion on the grounds of administrative efficiency. Although the Commission is not bound by the Federal Rules of Evidence, the Commission does believe that these rules provide useful guidance.

[12] 5 U.S.C. 552 (1982).

[13] This section prohibits Federal employees from making known proprietary information in any manner or to any extent not authorized by law.

[14] The Commission is required by law to release information requested under the FOIA that is not exempt under that Act. In addition, the Commission has discretion to release some exempt information. *See* 18 CFR Part 388 (1984).

[15] 18 CFR 385.903(d)-(g) (1984); Procedures for Review of Remedial Orders Issued by the Secretary of Energy, 43 FR 52219 (Nov. 9, 1978) (Order No. 14).

the information was submitted to DOE and 18 U.S.C. 1905 which makes it a criminal offense to release such information in any manner and to any extent not authorized by law. However, the removal of the requirement that DOE file its administrative record with the Commission renders this argument relevant only to the documents in the DOE administrative record which are filed by the participants as appendices to their pleadings. DOE does not guarantee that it will not release such information to third parties under a protective order in the proceedings before it.[16] In fact, DOE has released information that parties claimed was confidential on numerous occasions under a protective order. Thus, there exists no general premise of confidentiality which similar action by the Commission would violate. To the extent that a petitioner believes that this procedural rule imposes upon it a hardship, it may move the presiding officer to modify the rule. Similarly, the Commission believes that a limited release of information under a protective order does not violate 18 U.S.C. 1905.

E. Burden of Proof

The interim rule (§ 385.1009) requires a petitioner to show by a preponderance of the evidence that it is entitled to the relief sought. Several industry commenters suggest that DOE should meet an initial burden of supporting the denial of relief with reliable evidence. In contrast, DOE suggests that in deference to the Office of Hearings and Appeals' expertise the Commission should raise the applicant's burden of proof from the level of preponderence of the evidence to the level of clear and convincing evidence. The Commission believes, based on over six years of experience, that the current rule strikes a proper balance between the deference due to DOE's decisions and expertise and the Commission's duty under section 504 of the DOE Organization Act to protect the adjustment applicants from improper rejection of their requests for equitable relief.

F. Deletion of Proposed Order and Comment Procedures

Under existing § 385.1010 (a) and (c), a presiding officer issued a proposed order based on a review of the record, and within 15 days of service of that order the participants filed written comments with the Commission regarding the proposed order and any interlocutory rulings made by the presiding officer prior to the issuance of the proposed order. The Commission is amending § 385.1010 to remove these procedures. Such procedural steps are required by neither the Department of Energy Organization Act,[17] nor the Administrative Procedure Act,[18] and are unnecessarily duplicative. The participants will have had ample opportunity before the DOE's Office of Hearings and Appeals to file briefs setting forth their positions and to present oral argument.[19] They will have had the same opportunities before the Commission's presiding officer. They are therefore in no way prejudiced by not having yet another opportunity to argue their respective positions. In addition, by eliminating the proposed order phase of the proceeding, the Commission expedites the final resolution of the appeals in two ways. First, the new procedures save the time that would be needed to draft a second order. Second, they save time by eliminating the 15-day period that was provided for participants to file comments. Eliminating comments also saves the participants the time and expense of preparing these comments.[20]

G. Other Issues

Several commenters suggest that participants be allowed to request oral argument before the Commission itself or at least before one Commissioner. However, the rule does not now preclude these requests, and in fact a number of participants have sought oral argument before the Commission in the past.

The interim rule requires DOE to file its reply brief to the petition for review within 15 days of service of the petition for review and allows other participants during the DOE proceeding to make replies and any other filings which the presiding officer deems appropriate. One commenter suggests that petitioners be given the right to file a response to DOE's reply brief. The Commission declines to give the petitioner the right to file such a response. If the presiding officer believes that additional briefs would be of assistance in reaching a full and reasoned decision, he or she has the discretion to permit such filings under § 385.1005(e).

DOE requests that the filing period for its reply brief to the petition for review be increased from 15 to 30 days. The Commission is increasing to 20 days the 15-day filing period set forth in the interim rules. The Commission concludes that no further expansion is necessary since the Commission liberally grants extensions of time for such filings.

Under the interim rule (§ 385.1005), third-party participants in the DOE proceeding are permitted to participate in the Commission proceeding to the extent determined appropriate by the presiding officer. Persons who were denied the opportunity to participate in the prior proceeding or who were adversely affected by the contested order may move to intervene pursuant to § 385.214. Numerous commenters express their views regarding the circumstances under which and the extent to which parties other than the petitioner and DOE should be permitted to participate in the appeal proceeding. The interim rules on this matter have worked extremely well over the last six years, and the Commission sees no reason to change them now.

One commenter correctly notes that the interim rules set no filing date for petitions to intervene, and recommends that notice of all petitions for review be published in the **Federal Register** and that petitions to intervene be due fifteen days after such publication. This suggestion accurately describes the Commission's current practice. The Commission, therefore, sees no need to amend its rules in this regard.

One commenter takes issue with the adversarial nature of the appeal proceeding and the *de facto* party status of DOE's Office of Hearings and Appeals (DOE's trial-level adjudicatory forum). The Commission has found that the adversarial nature of the appeal proceeding provides it with a full presentation and analysis of the facts and law. While this benefit is itself sufficient reason to justify the retention of an adversarial mode of appeal, the Commission has also concluded that in the entitlements cases (the vast majority of current adjustment appeals) the adversarial mode allows DOE to protect the interests of the other participants in

[16] *See* 10 CFR 205.9(f)(2) (1984).

[17] 42 U.S.C. 7101 *et seq.* (1982).

[18] 5 U.S.C. 551 *et seq.* (1982). We note that section 557(c) of the APA (requiring that parties have a reasonable opportunity to submit "exceptions to the decisions or recommended decisions * * * or * * * tentative decisions * * * and * * * supporting reasons for the exceptions * * *") does not apply to adjustment denial proceedings. 5 U.S.C. 557(c)(2) and (3) (1982). Section 207(a) of the Economic Stabilization Act of 1970, 12 U.S.C. 1904 note (1982), which is incorporated by reference into section 5(a)(1) of the Emergency Petroleum Allocation Act of 1973, 15 U.S.C. 754(a)(1) (1982) (the enabling statute for adjustment proceedings), excludes such functions from the requirements of section 557(c) of the APA.

[19] 10 CFR Part 205, Subpart O (1984).

[20] The deletion of proposed order and comment procedures in adjustment denial proceedings is consistent with the Commission's practice and procedure in remedial order appeal proceedings. *See* Rules of Practice and Procedure: Commission Review of Remedial Orders, 50 FR 15731 (1985) (RM85-2-000) (Order No. 416).

the entitlements program from whom the money for the adjustment relief could come.[21] Finally, the Commission has no objection to the Office of Hearings and Appeals being, in effect, a party before the Commission. DOE's choice of arguing that office's position (as opposed to some other position) is an internal DOE matter into which the Commission will not inject itself. Moreover, since the Office of Hearings and Appeals' position is the *only* official position stated by DOE prior to the appeal, the Commission does not understand why DOE would take any other position.

In the past, any participant could request a hearing at any time during the proceeding (§ 385.1006). The Commission is modifiying this rule to require that requests for hearing be filed concurrently with the moving party's first pleading. Participants should know at the outset of the appeal whether they wish a hearing, so that requiring them to request one at the outset of the proceeding should in no way prejudice their interests. By thus accelerating this filing deadline, the Commission further expedites its review of appeals from denials of adjustment requests, and still provides participants ample opportunity to request a hearing.[22]

IV. Paperwork Reduction Act Statement

The Paperwork Reduction Act (PRA), 44 U.S.C. 3501–3520 (1982), and the Office of Management and Budget's (OMB) regulations, 5 CFR 1320.12 (1984), require that OMB approve certain information collection requirements imposed by an agency.

The information collection requirements provided for in this rulemaking do not require OMB approval because this information is being collected as part of an adjudicatory proceeding within the meaning of the PRA and OMB's regulations. 44 U.S.C. 3518(c)(1)(B) (1982); 5 CFR 1320.3(c) (1984). Because OMB approval is not required, those information collection requirements are not being submitted to OMB for review or approval.

V. Effective Date

This rule will become effective June 27, 1985.

[21] For a description of the entitlement program, *see, e.g.*, Edgington Oil Co., Inc., 27 FERC ¶62,021 at 63,021 (proposed order), *aff'd*, 27 FERC ¶61,381 (1984).

[22] This amendment to § 385.1006 is consistent with the Commission's practice and procedure in remedial order appeal proceedings. *See* Rules of Practice and Procedure: Commission Review of Remedial Orders, 50 FR — (1985) (RM85-2-000) (Order No. —).

List of Subjects in 18 CFR Part 385

Administrative practice and procedure.

In consideration of the foregoing, Subpart J, Part 385, Chapter I, Title 18, *Code of Federal Regulations*, and amended as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

1. The authority citation for Part 385 is revised to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1982); E.O. 12009, 3 CFR 142 (1978); Administrative Procedure Act, 5 U.S.C. 551–557 (1982); Independent Offices Appropriations Act, 31 U.S.C. 9701 (1982); Federal Power Act, 16 U.S.C. 791–825r (1982); Natural Gas Act, 15 U.S.C. 717–717w (1982); Natural Gas Policy Act, 15 U.S.C. 3301–3432 (1982); Public Utilities Regulatory Policies Act of 1978, 16 U.S.C. 2601–2645 (1982); Interstate Commerce Act, 49 U.S.C. 1–27 (1976), unless otherwise noted.

2. Section 385.1003 is amended by revising paragraphs (d) and (e), and adding a new paragraph (f), to read as follows:

§ 385.1003 Request for nondisclosure of information (Rule 1003).

* * * * *

(d) If information is submitted in accordance with paragraph (b) of this section, the information will not be disclosed except as provided in the Freedom of Information Act, in accordance with Part 388 of this subchapter and upon request in accordance with paragraph (e) of this section, to participants in the proceeding under the restrictions that the participants may not use or disclose the information except in the context of the proceeding couducted pursuant to this subpart and that the participants must return all copies of the information at the conclusion of the proceeding to the person who submitted the information under paragraph (b) of this section.

(e) At any time, a participant may request the presiding officer to direct a person submitting information under paragraph (b) of this section to provide that information to the participant requesting the information under this paragraph. The presiding officer will so direct if the participant requesting the information agrees:

(1) Not to use or disclose the information except in the context of the proceeding conducted pursuant to this subpart; and

(2) To return all copies of the information, at the conclusion of the proceeding, to the person submitting the information under paragraph (b) of this section.

(f) At any time, a participant may request the presiding officer to direct that the complete record of prior proceedings, including information determined by the Secretary to be exempt from disclosure, be made available to that participant. The presiding officer will so direct if the participant requesting the complete record agrees:

(1) Not to use or disclose the information determined to be exempt except in the context of the proceeding conducted pursuant to this subpart, and

(2) To return all copies of the information determined to be exempt to the presiding officer at the conclusion of the proceeding.

§ 385.1005 [Amended]

3. Section 385.1005(a) is amended by removing the number "15" and adding, in lieu thereof, the number "20".

4. Section 385.1005 is further amended by removing the colon at the end of paragraph (a) introductory text, by removing paragraph (a)(1), by removing the designation "(2)" from paragraph (a)(2), and by adding the text of paragraph (a)(2) to the end of paragraph (a) introductory text.

5. In § 385.1006, a sentence is added at the end, to read as follows:

§ 385.1006 Request for hearing (Rule 1006).

* * * Such request must be filed concurrently with participant's first pleading.

6. Section 385.1007 is amended by adding a new paragraph (c) to read as follows:

§ 385.1007 Presiding officer (Rule 1007).

* * * * *

(c) The petitioner must file a request to raise new facts or issues simultaneously with its petition for review. The Secretary must file such a request simultaneously with its reply to the petition for review. A third party must make such a request by the filing deadline set by the presiding officer.

7. Section 385.1010 is revised to read as follows:

§ 385.1010 Certification of the record (Rule 1010).

The presiding officer will certify and file with the Office of the Secretary of the Commission, for the Commission, a copy of the record in the proceeding.

8. Section 385.1013 is added to read as follows:

§ 385.1013 Attachments to pleadings (Rule 1013).

(a) Each party will file, as an appendix to each pleading which cites documents in the record developed in the prior proceedings on the adjustment request, one copy of each such document in its entirety and, if such document contains information exempt from public disclosure pursuant to rule 1003, a second copy of such document with such information deleted. The top of the first page of each such document will contain the word "PUBLIC" or "NON-PUBLIC," to indicate whether it contains exempt information.

(b) One copy of the PUBLIC and NON-PUBLIC versions must be served on counsel for the petitioner and/or the Secretary, and one copy of the PUBLIC version must be served on counsel for each other participant separately represented unless the conditions of Rule 1003 are met, in which situation such counsel must be served with copies of both versions.

(c) In compiling appendices, the parties will include only documents specifically cited and relied upon in their pleadings. In light of the fact that the Commission always has access to the Secretary's entire administrative record, the parties must not include irrelevant or repetitive documents in the appendices.

[FR Doc. 85-12694 Filed 5-24-85; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin and Sulfamethazine

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed for Webel Feeds, Inc., providing for manufacturing premixes containing 5, 10, 20, or 40 grams per pound each of tylosin and sulfamethazine. The premixes are subsequently used to make finished swine feeds.

EFFECTIVE DATE: May 28, 1985.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Center for Veterinary Medicine (HFV-135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1414.

SUPPLEMENTARY INFORMATION: Webel Feeds, Inc., Rural Route 3, Pittsfield, IL 62363, is sponsor of NADA 120-614 submitted on its behalf by Elanco Products Co. The NADA provides for the manufacture of premixes containing 5, 10, 20, or 40 grams per pound each of tylosin (as tylosin phosphate) and sulfamethazine intended for use to subsequently make finished swine feeds. The resulting feeds are for use in maintaining weight gains and feed efficiency in the presence of atrophic rhinitis, lowering the incidence and severity of *Bordetella bronchiseptica* rhintis, preventing swine dysentery (vibrionic), and controlling swine pneumonias caused by bacterial pathogens (*Pasteurella multocida* and/or *Corynebacterium pyogenes*). The NADA is approved and the regulations are amended to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined pursuant to 21 CFR 25.24(d)(1)(i) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 558, is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for Part 558 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343-351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

§ 558.630 [Amended]

2. In § 558.630 by amending paragraph (b)(10) by inserting the number "035098" in numerical order.

Dated: May 17, 1985.

Lester M. Crawford,

Director, Center for Veterinary Medicine.

[FR Doc. 85-12669 Filed 5-24-85; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Virginiamycin and Lasalocid

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by SmithKline Animal Health Products, providing for no withdrawal period when using lasalocid in combination with virginiamycin in medicated chicken feed to prevent certain forms of coccidiosis and for increased rate of weight gain and improved feed efficiency.

EFFECTIVE DATE: May 28, 1985.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV-128), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4317.

SUPPLEMENTARY INFORMATION: SmithKline Animal Health Products, Division of SmithKline Beckman Corp., 1600 Paoli Pike, West Chester, PA 19380, filed a supplement to NADA 122-608 providing for no withdrawal period when using lasalocid (68-113 g/ton) in combination with virginiamycin (20 g/ton) in broiler feeds for prevention of certain forms of coccidiosis and for increased rate of weight gain and improved feed efficiency. The drug combination currently requires a 5-day withdrawal period. The basis for approval is discussed in the freedom of information summary. The supplement is approved and the regulations are amended accordingly.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 541.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined pursuant to 21 CFR 25.24(d)(1)(i) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or

cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.83), Part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for Part 558 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343-351 (21 U.S.C. 360b), unless otherwise noted.

§ 558.311 [Amended]

2. In § 558.311 *Lasalocid* in the table in paragraph (f) in item (5) in the fourth column "Limitations" by removing the phrase "withdraw 5 days before slaughter."

Effective date. May 28, 1985.

Dated: May 17, 1985.

Marvin A. Norcross,

Acting Associate Director for Scientific Evaluation.

[FR Doc. 85-12664 Filed 5-24-85; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 232 and 235

[Docket No. R-85-1242; FR-2124]

Mortgage Insurance; Changes in Interest Rates

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This change in the regulations decreases the maximum allowable interest rate on Section 232 (Mortgage Insurance for Nursing Homes) and on Section 235 (Homeownership for Lower Income Families) insured loans. This final rule is intended to bring the maximum permissible financing charges for these programs into line with competitive market rates.

EFFECTIVE DATE: May 21, 1985.

FOR FURTHER INFORMATION CONTACT: John N. Dickie, Chief Mortgage and Capital Market Analysis Branch, Office of Financial Management, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. Telephone (202) 755-7270. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The following amendments to 24 CFR Chapter II have been made to decrease the maximum interest rate which may be charged on loans insured by this Department under section 232 (fire safety equipment) and section 235 of the National Housing Act. The maximum interest rate on the HUD/FHA section 232 (fire safety equipment) and section 235 insurance programs has been lowered from 12.50 percent to 12.00 percent.

The Secretary has determined that this change is immediately necessary to meet the needs of the market and to prevent speculation in anticipation of a change, in accordance with his authority contained in 12 U.S.C. 1709-1.

As a matter of policy, the Department submits most of its rulemaking to public comment, either before or after effectiveness of the action. In this instance, however, the Secretary has determined that advance notice and public comment procedures are unnecessary and that good cause exists for making this final rule effective immediately.

HUD regulations published at 47 FR 56266 (1982), amending 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969, contain categorical exclusions from their requirements for the actions, activities and programs specified in § 50.20. Since the amendments made by this rule fall within the categorical exclusions set forth in paragraph (*l*) of § 50.20, the preparation of an Environmental Impact Statement or Finding of No Significant Impact is not required for this rule.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation issued on February 17, 1981. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local governmental agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In accordance with the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule provides for a small increase in the mortgage interest rate in programs of limited applicability, and thus of minimal effect on small entities.

This rule was not listed in the Department's Semiannual Agenda of Regulations published on October 22, 1984 (49 FR 41684) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program numbers are 14.108, 14.117, and 14.120.

List of Subjects

24 CFR Part 235

Condominiums, Cooperatives, Low and moderate income housing, Mortgage insurance, Homeownership, Grant programs—housing and community development.

24 CFR Part 232

Fire prevention, Health facilities, Loan programs—health, Loan programs—housing and community development, Mortgage insurance, Nursing homes, Intermediate care facilities.

Accordingly, the Department amends 24 CFR Parts 232 and 235 as follows:

PART 232—NURSING HOMES AND INTERMEDIATE CARE FACILITIES MORTGAGE INSURANCE

1. The authority citation for 24 CFR Part 232 is revised to read as set forth below and any citation following any section in Part 232 is removed:

Authority: Secs. 211, 232, National Housing Act, (12 U.S.C. 1715b, 1715w); Sec. 7(d), Department of Housing and Urban Development, (42 U.S.C. 3535 (d)).

2. In § 232.560, paragraph (a) is revised to read as follows:

§ 232.560 Maximum interest rate.

(a) The loan shall bear interest at the rate agreed upon by the lender and the borrower, which rate shall not exceed 12.00 percent per annum, except that where an application for commitment was received by the Secretary before May 21, 1985, the loan may bear interest at the maximum rate in effect at the time of application.

* * * * *

PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION

3. The authority citation for 24 CFR Part 235 is revised to read as set forth below and any citation following any section in Part 235 is removed:

Authority: Secs. 211, 235, National Housing Act, (12 U.S.C. 1715b, 1715z); Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

4. In § 235.9, paragraph (a) is revised to read as follows:

§ 235.9 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 12.00 percent per annum, except that where an application for commitment was received by the Secretary before May 21, 1985, the loan may bear interest at the maximum rate in effect at the time of application.

5. In § 235.540, paragraph (a) is revised to read as follows:

§ 235.540 Maximum interest rate.

(a) On or after May 21, 1985, the loan shall bear interest at the rate agreed upon by the lender and the borrower, which rate shall not exceed 12.00 percent per annum, with the exception of applications submitted pursuant to feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these instances, applications will be processed at a rate not exceeding the applicable previous maximum rates, if the higher rate was previously agreed upon by the parties. Notwithstanding these exceptions, the application will be processed at the new lower rate if requested by the mortgagee.

Dated: May 20, 1985.

Silvio J. DeBartolomeis,

Acting General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 85-12762 Filed 5-24-85; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD13 85-04]

Regatta; Seattle Seafair Budweiser APBA Gold Cup Race

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This regulation establishes an area of controlled navigation upon the waters of Lake Washington, near Seattle, Washington, from July 31, 1985 through August 4, 1985. This is necessary due to the unlimited hydroplane races scheduled for this time period as part of Seattle's Seafair Budweiser APBA Gold Cup Race. The Coast Guard, through this action, intends to promote the safety of spectators and participants in this event.

EFFECTIVE DATES: This regulation is effective from July 31, 1985 through August 4, 1985.

FOR FURTHER INFORMATION CONTACT: CAPT D.J. Bluett, Chief, Search and Rescue Branch, Thirteenth Coast Guard District, (206) 442-5880.

SUPPLEMENTARY INFORMATION: On March 28, 1985, the Coast Guard published a notice of proposed rulemaking in the **Federal Register** for these regulations (50 FR 12337). Interested persons were requested to submit comments and no comments were received.

Drafting Information

The drafters of these regulations are CDR D.H. Hagen, USCGR, project officer, Thirteenth Coast Guard District Search and Rescue Branch, and LCDR D.G. Beck, USCG, project attorney, Thirteenth Coast Guard District Legal Office.

Discussion of Comments

No comments were received. Minor editorial changes were made in the final rule by the drafters to improve the overall clarity of the rule.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1976). The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. The regulations affect only spectators and participants to the race and applies to a small area of Lake Washington. In addition it will be in effect for only five (5) days, two (2) of those days being Saturday and Sunday. There is no commercial traffic in this area of Lake Washington.

Since the impact of these regulations is expected to be minimal the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Final Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35

2. 33 CFR Part 100 is amended by adding § 100.35-1314 to read as follows:

§ 100.35-1314 Lake Washington 1985 Seattle Seafair Budweiser APBA Gold Cup Race.

(a) From July 31 to August 3, 1985, this regulation will be in effect from 8:00 A.M. until 5:00 P.M. On August 4, 1985, this regulation will be in effect from 8:00 A.M. until one hour after the conclusion of the last race.

(b) The area where the Coast Guard will restrict general navigation by this regulation during the hours it is in effect is:

(1) The waters of Lake Washington bounded by the Mercer Island (Lacey V. Murrow) Bridge, the western shore of Lake Washington, the east/west line drawn tangent to the Northern tip of Bailey Peninsula, and along the shoreline of Mercer Island.

(c) The area described in paragraph (b) of this section has been divided into two zones. The zones are separated by a log boom and a line from the southeast corner of the boom to the northeast tip of Bailey Peninsula. The Western Zone is designated Zone I, the Eastern Zone, Zone II. The race course for this event is in Zone I. (Refer to NOAA chart 18447.)

(d) The Coast Guard will maintain a patrol consisting of active and auxiliary Coast Guard Vessels in Zone II. The Coast Guard Patrol of the entire patrol area is under the direction of the Coast Guard Patrol Commander (the "Patrol Commander"). The Patrol Commander is empowered to control the movement of vessels in the patrol area described in paragraph (b) of this section, on the race course, and in the adjoining waters during the periods this regulation is in effect.

(e) Only authorized vessels may be allowed to enter Zone I during the hours this regulation is in effect. Vessels in the vicinity of Zone I shall maneuver and anchor as directed by Coast Guard Officers or Petty Officers.

(f) During the times in which this regulation is in effect, swimming, wading , or otherwise entering the water in Zone I by any person is prohibited.

(g) Vessels proceeding in either Zone I or Zone II during the hours this regulation is in effect (other than official racing vessels in Zone I) shall do so only at speeds which create minimum wake, seven (7) miles per hour or less. This maximum speed may be adjusted at the discretion of the Patrol Commander.

(h) Upon completion of the daily racing activities, all vessels leaving either Zone I of Zone II shall proceed at speeds of seven (07) miles per hour or less. This maximum speed may be adjusted at the discretion of the Patrol Commander.

(i) A succession of sharp, short signals by whistle, siren, or horn from vessels patrolling the area under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signalled shall stop and shall comply with the orders of the patrol vessel personnel; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

Dated: May 14, 1985.

H. W. Parker,

Rear Admiral, U.S. Coast Guard Commander, 13th Coast Guard District

[FR Doc. 85-12732 Filed 5-24-85; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 117

[CGD3 85-20]

Temporary Drawbridge Operation Regulations: Niantic River, CT

AGENCY: Coast Guard, DOT.

ACTION: Temporary regulation.

SUMMARY: The Coast Guard is issuing temporary regulations for the Route 156 drawbridge over Niantic River, at mile 0.9. The temporary regulation allows a 10 minute delay after an opening for a vessel before another opening is required and requires openings for public vessels of the United States and vessels in distress in the interest of safety. This is being done in conjunction with the Notice of Proposed Rulemaking (CGD3-84-16) appearing in the Proposed Rules section of this issue of the **Federal Register** to evaluate a portion of that proposal designed to reduce vehicular traffic congestion in the vicinity of the bridge while still providing for the reasonable needs of navigation.

EFFECTIVE DATE: This temporary regulation becomes effective on May 30, 1985 and terminates on July 30, 1985.

FOR FURTHER INFORMATION CONTACT: Lucas A. Dlhopolsky, Bridge Management Specialist at (212)668-7994.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was not published for this regulation and it is being made effective in less than 30 days after **Federal Register** publication. Following normal rulemaking procedures would be impracticable. Immediate implementation of the temporary regulation is necessary to evaluate its effect during the summer months when both recreational boating traffic and vehicular traffic are at their peak. For a full discussion of the proposal to adopt this and other regulatory changes for this bridge on a permanent basis see the Notice of Proposed Rulemaking (CGD3 84-16) appearing in the Proposed Rules section of this issue of the **Federal Register.**

Drafting Information

The drafters of this regulation are Lucas A. Dlhopolsky, project manager, and Mary Ann Arisman, project attorney.

List of Subjects in 33 CFR Part 117

Bridges.

Temporary Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

(1) The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g).

(2) Section 117.215(b) is revised to read as follows for the period May 30 through July 30, 1985. Because this is a temporary rule, this revision will not appear in the Code of Federal Regulations.

§ 117.215 Niantic River.

* * * * *

(b) The draw of the S156 bridge, mile 0.1 at Niantic, shall open on signal except:

(1) From 7 a.m. to 8 a.m., and from 4 p.m. to 5 p.m. Monday through Friday except holidays, the draw shall open only for passage of commercial vessels.

(2) The draw may delay opening for a period of up to 10 minutes after closure of the bridge following an opening for a vessel, to allow vehicular traffic to cross the bridge.

(3) The draw shall open at all times as soon as possible for a public vessel of the United States or a vessel in distress.

Dated: May 10, 1985.

P. A. Yost,

Vice Admiral, U.S. Coast Guard, Commander, Third Coast Guard District.

[FR Doc. 85-12733 Filed 5-24-85; 8:45 am]

BILLING CODE 4910-14-M

VETERANS ADMINISTRATION

38 CFR Part 17

Emergency Outpatient Dental Treatment; Correction

AGENCY: Veterans Administration.

ACTION: Final rule; correction.

SUMMARY: This document corrects a section heading published in a final rule in the **Federal Register** of April 15, 1985.

FOR FURTHER INFORMATION CONTACT: Jerry Hanes (202) 389-2337.

SUPPLEMENTARY INFORMATION:

PART 17—[AMENDED]

§ 17.124 [Corrected]

This document corrects the title of 38 CFR 17.124 which appeared in FR Doc. 85-8967, as a final rule in the **Federal Register** of April 15, 1985 in the third column on page 14704. The correct title of the section is "§ 17.124 Emergency outpatient dental treatment."

Dated: May 21, 1985.

Nancy C. McCoy,

Chief, Directives Management Division.

[FR Doc. 85-12702 Filed 5-24-85; 8:45 am]

BILLING CODE 8320-01-M

38 CFR Part 21

Veterans Education; Measurement of Courses

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The regulations governing measurement of courses have assumed that when a college is accredited by a regional accrediting association, the accreditation extends to all the college's courses. This is not always the case. Consequently, when regulation users attempted to apply these regulations, they became confused. These amended regulations will eliminate this confusion.

EFFECTIVE DATE: May 9, 1985.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont

Avenue NW., Washington, D.C. 20420 (202) 389–2092.

SUPPLEMENTARY INFORMATION: On pages 21949 through 21951 of the **Federal Register** of May 24, 1984, there was published a notice of intent to amend Part 21 to state how the Veterans Administration (VA) will measure courses when a college's accreditation does not extend to all of a college's courses.

Interested people were given 30 days to submit comments, suggestions, or objections. The VA received one letter and one telephone call. The letter was from an educational association. The telephone call was from a school official.

The letter writer suggested placing the words "as applicable" after the word "agency" in the proposed 38 CFR 21.4272(b)(2)(ii). She stated this would take into account the fact that eight States do not have an agency with the authority to grant institutions the right to confer degrees.

The final regulations which appear here do not contain 38 CFR 21.4272(b)(2)(ii) as proposed. However, this is not the result of the suggestion.

The agency reviewed § 21.4272(b) and decided to amend the introductory material in that paragraph to make it easier to use. The agency found that it is not necessary to amend subparagraph (2) of that paragraph.

Section 21.4272(b) already requires a course to lead to an associate, baccalaureate, or higher degree, which is granted by the school offering the degree under authority specifically conferred by a State education agency, before the course can be measured on a credit-hour basis. By deciding to leave this subparagraph unchanged, the VA is not adopting this suggestion.

In effect, this suggestion would permit nonaccredited degree courses offered in the eight States without State degree-granting authority to be measured on a credit-hour basis.

The States assume varying degrees of control over education, but, in general, degree-granting institutions are allowed to operate with considerable independence and autonomy. Consequently, these institutions vary widely in the character and quality of their programs.

The provisions of 38 U.S.C. 1788 make clear that the type of training and the type of institution offering it are significant in determining the method of measurement. The VA must recognize the provisions of law and the variation in the quality of programs when measuring courses offered by a college which is not fully accredited. In these cases the VA needs some assurance about the character of the college's programs before measuring its courses on a credit-hour basis the way the agency would those courses offered by a fully accredited institution of higher learning. One of the ways in which the agency receives this assurance is when the college offering the courses in the degree program has received degree granting authority from a State agency.

The letter writer offered no evidence that all of the degree programs offered by candidates for accreditation in States where there is no agency with the power to confer degree-granting authority are at least as high in quality as those in the other 42 States. Accordingly, the agency did not adopt the suggestion.

The person who commented by telephone stated that the proposed regulation was confusing when applied to transfer programs. He suggested revising the proposal so that is would not appear to require that these courses have to be measured on a clock-hour basis.

In some States students in a community or junior college may earn some additional credits beyond those necessary for an associate degree. These additional credits may be applied toward the elective requirements of a bachelor's degree offered at a State college or university. This suggestion is directed toward assuring that the VA considers these courses to be accredited.

For students who have not yet obtained the associate degree, these courses would be considered to be accredited if the community or junior college were accredited at the associate degree level. There is no reason to base the decision on whether a course is accredited upon the educational experience of the veteran or eligible person enrolled in the course. Therefore, this suggestion has been adopted. The final regulations have been changed accordingly. It should be noted that if a community college accredited at the associate degree level begins to offer upper division courses, the VA would consider those courses to be nonaccredited even if another college accredited at the bachelor's degree level agreed to accept credits earned in those courses toward its bachelor's degree.

The VA has determined that these regulations are not major rules as that term is defined by E.O. 12291, entitled Federal Regulation. The regulations will not cause a major increase in costs or prices for anyone. They will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator of Veterans' Affairs has certified that these regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), these regulations, therefore are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because measurement of courses affects only payments made directly to individuals in a program of education. The amendment to 38 CFR 21.4272 affects measurement of courses, and so affects only individual benefit recipients. The amendment to 38 CFR 21.4273 simply states a longstanding VA policy which has not been stated clearly before.

The Catalog of Federal Domestic Assistance number for the program affected by this regulation: 64.111.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: May 9, 1985.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

The Veterans Administration is amending 38 CFR Part 21 as set forth below:

§ 21.4270 [Amended]

1. In § 21.4270(b), footnote 2 is amended by changing the reference "§ 21.4272(f)" to read "§ 21.4272(k)."

2. In § 21.4272, the heading, introduction, paragraph (a) and the introductory portion of paragraph (b) are revised as follows:

§ 21.4272 Collegiate course measurement.

The VA will measure a college level course in an institution of higher learning on a credit-hour basis provided all the conditions under paragraph (a), (b), (c)(1) or (c)(2) of this section are met. If a course qualifies for credit-hour measurement, it is still subject to the provisions of paragraph (f) of this section. See also § 21.4273 (38 U.S.C. 1788).

(a) *Degree courses—accredited or candidate.* The VA will measure a degree course on a credit-hour basis when—

(1) An institution of higher learning offers the course; and

(2) A nationally recognized accrediting association either—

(i) Accredits the institution of higher learning, or

(ii) Recognizes the institution as a candidate for accreditation; and

(3) The credits earned in the course can be applied towards an associate, baccalaureate or higher degree which is—

(i) Appropriate to the level of the institution of higher learning's accreditation, or

(ii) Appropriate to the level of the institution of higher learning's candidacy for accreditation; and

(4) The course is offered on a semester-hour or quarter-hour basis, and

(5) The degree to which the course credits are applicable either—

(i) Is granted by the institution of higher learning offering the course,

(ii) Is a part of a concurrent enrollment as described in §21.4233(b), or

(iii) Is being pursued by a nonmatriculated student as provided in §21.4252 (1), (2) or (3).

(b) *Degree courses—nonaccredited.* The VA will measure on a credit-hour basis a degree course which does not meet the requirements of paragraph (a) of this section when—

* * * * *

3. In § 21.4273, paragraph (a) is revised as follows:

§ 21.4273 Collegiate graduate.

(a) *In residence.* (1) The Veterans Administration will measure a nonaccredited graduate or advanced professional course (other than a law course) as provided in §21.4272. The Veterans Administration will measure a nonaccredited law course as stated in § 21.4274.

(2) An accredited graduate or advanced professional course, including law as specified in § 21.4274, pursued in residence at an institution of higher learning will be assessed in accordance with § 21.4272 unless it is the established policy of the school to consider less than 14 semester hours or the equivalent as full-time enrollment, or the course includes research, thesis preparation, or a comparable prescribed activity beyond that normally required for the preparation of ordinary classroom assignments. In either case a responsible official of the school will certify that the veteran or eligible person is pursuing the course full, three-quarter, one-half, less than one-half but more than one-quarter, or one quarter or less time (38 U.S.C. 1788(b)).

* * * * *

[FR Doc. 85-12715 Filed 5-24-85; 8:45 am]

BILLING CODE 8320-01-M

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38 CFR Part 21

Veterans Education; Special Restorative Training

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: These regulations are amended to make clear that only eligible children may receive special restorative training as provided by law. The language currently used has caused confusion as to who may be eligible for these benefits.

EFFECTIVE DATE: May 9, 1985.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420, (202) 389-2092.

SUPPLEMENTARY INFORMATION: On pages 39572 and 39573 of the **Federal Register** of October 9, 1984, there was published a notice of intent to amend Part 21 in order to make clear that only eligible children may receive special restorative training.

Interested people were given 30 days in which to submit comments, suggestions, or objections. The VA received one letter containing a suggestion from a veterans claims examiner in New York.

He suggested additional amendments to Part 21 to make other references to special restorative training clearer. His suggestion, however, had already been acted upon in a separate regulation change. Therefore, these final regulations do not reflect any change from what was originally proposed.

The VA has determined that these regulations do not contain a major rule as that term is defined by E.O. 12291, entitled, Federal Regulation. The annual effect on the economy will be less than $100 million. The regulations will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator of Veterans' Affairs has certified that the regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), these regulations, therefore, are exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

This certification can be made because this change affects individual benefit recipients. The proposal will have no significant economic impact on small entities, i.e., small business, small private and nonprofit organizations and small governmental jurisdictions.

The Catalog of Federal Domestic Assistance number for the program affected by this regulation is 64.117.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: May 9, 1985.

By direction of the Administrator.

Everett Alvarez Jr.,

Deputy Administrator.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

The Veterans Administration is amending 38 CFR Part 21 as set forth below:

1. In § 21.3330, paragraph (b) is revised as follows:

§ 21.3330 Payments.

* * * * *

(b) The VA will pay special training allowance only for the period of the eligible child's approved enrollment as certified by the vocational rehabilitation specialist. In no event, however, will the VA pay such allowance for any period during which:

(1) The eligible child is not pursuing the prescribed course of special restorative training that has been determined to be full-time training with respect to his or her capacities.

(2) An educational assistance allowance is paid. (38 U.S.C. 1742)

* * * * *

2. Section 21.3332 is revised to read as follows:

§ 21.3332 Discontinuance dates.

The VA will discontinue special training allowance as provided in this section on the earliest date of the following:

(a) The ending date of the course.

(b) The ending date of the period of enrollment as certified by the vocational rehabilitation specialist.

(c) The ending date of the period of eligibility.

(d) The expiration of the eligible child's entitlement.

(e) Date of interruption of course as determined by the vocational rehabilitation specialist under § 21.3305.

(f) Date of discontinuance under the applicable provisions of § 21.4135. (38 U.S.C. 1743(b))

[FR Doc. 85-12716 Filed 5-24-85; 8:45 am]
BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 260

[SWN-FRL-2840-9]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Notice of Availability

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of guidance document.

SUMMARY: EPA has published a guidance document entitled *Petitions to Delist Hazardous Wastes—A Guidance Manual.* EPA announced its intention to publish this manual at the public meetings held in Washington, D.C. on February 5, 1985, and Dallas, Texas on February 7, 1985. This document is now available through National Technical Information Service (NTIS) at a cost of $19.00 per hard copy or $4.50 per microfiche copy. The NTIS document identification number (for the purpose of ordering) is PB 85-194488. This manual describes the data which should be included in a delisting petition submitted under 40 CFR 260.22 of the RCRA regulations.

DATES: The guidance manual is available for viewing in the docket office for the Office of Solid Waste and may be ordered through National Technical Information Service (NTIS) as of May 28, 1985.

ADDRESSES: The guidance manual identified above is available for public viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays, in the docket office for the Office of Solid Waste, Room S212, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. This manual may be purchased from National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161. The NTIS Sales Office may be contacted directly at (703) 487-4650.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, toll free at (800) 424-9346, or at (202) 382-3000. For technical information contact Mr. Myles Morse, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 475-8551.

SUPPLEMENTARY INFORMATION: The petition mechanism described in 40 CFR 260.20 and 260.22 allows persons to demonstrate that a specific waste from a particular generating facility should not be regulated as a hazardous waste under 40 CFR Subpart D. To be excluded, petitioners must show that a waste generated at their facility does not meet any of the listing criteria, does not exhibit any of the hazardous waste characteristics, and does not contain any other toxicants at hazardous levels. This guidance manual describes the data which should be included in a delisting petition submitted under 40 CFR 260.22. The manual presents a step-by-step approach to compiling a delisting petition. It describes and includes examples of each information requirement, such as process descriptions, raw material lists, sampling plans, and test data. The manual includes a mock or sample petition as well as necessary test methods.

Dated: May 15, 1985.

Stephen R. Wassersug,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 85-12708 Filed 5-24-85; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 43

[CC Docket No. 79-262; FCC 85-219]

Update and Simplification of the Required Traffic Data Reports Filed by International Telecommunications Carriers

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Report and Order amends § 43.61 of the Commission's rules governing the reporting of traffic data by international telecommunications carriers. The amendments are intended to update the Commission's Rules and eliminate unnecessary burdens on the carriers.

EFFECTIVE DATE: June 27, 1985.

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Daniel A. Spiro, International Policy Division, Common Carrier Bureau, Federal Communications Commission, Washington, D.C. 20554, (202) 632-4047.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 43

Communications common carriers, Reporting requirements.

Report and Order

Amendment of §43.61 of the Commission's rules to update and simplify the required traffic data reports filed by International Telecommunications Carriers; CC Docket No. 79-262.

Adopted: April 26, 1985.
Released: May 15, 1985.

By the Commission.

I. Introduction

1. Section 43.61 of the Commission's Rules and Regulations, 47 CFR 43.61 (1983), requires those common carriers which provide international telecommunications services to file reports with the Commission containing data on overseas traffic. Such data assist the Commission's efforts in evaluating applications for international facilities, considering facility planning options, monitoring the development and competitiveness of each international market, formulating policies consistent with the public interest and gauging the competitive impact of our decisions on the market. The current reporting rules were promulgated in 1964 and have never been amended.[1]

2. Pursuant to § 43.61, reports are filed twice a year covering the periods of January through June and January through December, respectively. These reports contain data subdivided into several service classifications. For example, traffic data on message telegraph service, private line service and message telephone service are each reported separately for each carrier. Traffic data are also segregated according to whether the communication originated in the United States, terminated in the United States or merely transited the United States. Finally, information is reported separately for each point (country,

[1] Amendments of Part 43 of the Commission's Rules and Regulations, with respect to the filing by common carriers of periodic statistical reports of their overseas traffic, FCC 64-868 (released October 1, 1964).

offshore location, etc.) outside of the continental United States except Alaska, Canada, Saint Pierre-Miquelon and Mexico.[2]

3. On October 16, 1979, the Commission issued a joint Notice of Inquiry and Notice of Proposed Rulemaking (Notice) in the above captioned proceeding soliciting comments involving the possibility of altering the reporting requirements under § 43.61[3] The Notice was intended to address several perceived problems with the current reporting procedures. Namely, much of the required data were not useful to the Commission, data reliability was suspect and existing service classifications were not up to date with newer services provided by the international carriers. As a result of these perceived problems, the Notice requested comments on: (a) Whether the semi-annual reports should be eliminated; (b) whether the current filing due dates should be changed; (c) whether revisions and corrections in the data should be required to increase data reliability; and (d) whether alterations should be made in the scope, type and format of the required data.

4. Comments to the Notice were filed by the American Telephone and Telegraph Company (AT&T), the Hawaiian Telephone Company (Hawaiian), Roger W. Hubbell,[4] ITT World Communications Inc. (ITT), RCA Global Communications, Inc. (RCA), TRT Telecommunications Corporation (TRT), and Western Union International, Inc. (WUI). Reply comments to the Notice were filed by AT&T and ITT. The content of these comments will be addressed in the discussions that follow.

5. In the Notice, we stated that a further notice of proposed rulemaking would subsequently be issued, proposing specific rule changes and inviting interested parties to comment. On August 8, 1984, a Further Notice of Proposed Rulemaking (Further Notice) was adopted by the Commission.[5] Based upon the observations of the Commission from 1979 to 1984 and the comments we had received in 1979, we reached several tentative conclusions. First, the requirement of semi-annual reports should be eliminated. Second, the due date for submitting the required annual reports should be changed from May 15 to July 31 for the data covering the previous calendar year. Third, carriers should be required to submit, on October 31, a report revising and correcting any estimates or errors included in the annual report, and no additional revised reports should be required. Fourth, revisions should be made with respect to the reporting of program transmission and private line services. And fifth, the scope of the rule should be broadened to include U.S. traffic to or from Mexico, Saint Pierre—Miquelon and Canada.

6. Comments to the Further Notice have been filed by MCI International, Inc. (MCII), The Western Union Telegraph Company (Western Union), Hawaiian, GTE Sprint Communications Corporation (GTE), ITT, AT&T, RCA and TRT. Reply comments to the Further Notice have been filed by AT&T and Western Union. The content of these comments will be addressed in the discussions that follow.

II. Summary of Decision

7. The international telecommunications industry is an extremely dynamic industry which we must monitor to ensure that our decisions have the desired effects. As technology rapidly advances in this industry, the Commission requires traffic data in order to evaluate applications for international facilities, consider facility planning options, monitor market development and the competitiveness of each service and geographical market in the industry, formulate policies consistent with the public interest and gauge the competitive impact of our decisions on the market. Section 43.61 data are invaluable to the Commission in enabling it to fulfill these objectives as efficiently as possible.

8. However, certain current § 43.61 reporting requirements provide little assistance to the Commission and, at the same time, substantially burden the carriers. Such requirements have been eliminated by this order. Of the current § 43.61 requirements that shall remain, many shall be modified. These modifications will best assist us in regulating the international telecommunications industry without unduly burdening the carriers.

9. Specifically, we have decided to amend § 43.61 in accordance with the tentative conclusions set forth in the Further Notice to eliminate the six-month report and move the filing due date for the annual report from May 15 to July 31. We further decide that carriers will be required to submit a report, on October 31, revising and correcting any figures included in the annual report which have been found by the carriers to be inaccurate by more than five percent. Our experience is that most corrections are relatively minor. Thus, a five percent threshold will avoid a burdensome regulatory requirement while still giving the staff and the public reliable date.[6] We mandate separate reporting for two sevices—audio program transmission and occasional use television transmission and reception—which previously have been lumped together and categorized as "program service." Modified reporting categories for private line services will also be ordered to replace the current manner of reporting such services. These changes will produce usable data on new high speed offerings while reducing reporting burdens on other services. Further, we have streamlined the data required to be reported for transiting traffic.[7] Finally, the scope of the § 43.61 reports will be narrowed to exclude traffic between the continental United States and off-shore U.S. points. Below, issue by issue, we summarize the various filings, analyze the record and reach specific conclusions.

III. Filings and Discussion

A. (1) The Need for the Continuation of § 43.61 Reports

10. While modifications of § 43.61 reporting requirements were the focus of both the Notice and the Further Notice, neither document explicitly raised the issue of whether the reports should be eliminated altogether. The issue was first raised by Mr. Hubbell, in his comments to the Notice. Responding to a statement in the Notice that "we seek to remedy the problems discussed . . . [in the Notice] as well as other problems that may be brought to our attention."[8] Mr. Hubbell requested that the Commission consider the need and function of the data required by § 43.61. He concluded that the Commission is justified in requiring the reports, but only as a source of general data for industry analysis purposes.

11. The issue was raised again by AT&T in its comments to the Further Notice. AT&T analyzed the need and utility to the Commission of the § 43.61 reports solely in terms of the reports' function in the planning and

[2] Saint Pierre-Miquelon is a French possession consisting of two small islands off the eastern coast of Canada.

[3] Notice of Inquiry and Proposed Rulemaking, CC Docket No. 79-262, FCC 79-620 (released October 16, 1979), 44 FR 61214 (October 24, 1979).

[4] Mr. Hubbell is a consultant.

[5] Further Notice of Proposed Rulemaking, CC Docket No. 79-262, FCC 84-393 (released August 14, 1984), 49 FR 35309 (September 12, 1984).

[6] Of course, if a carrier desires to update or correct even *de minimis* errors it may do so.

[7] For purposes of § 43.61, "transiting traffic" generally means "communications which both originate and terminate outside but transit the continental United States or Alaska. . ." *See* Appendix, Redesignated paragraph § 43.61(a)(17), as amended.

[8] *See supra*, note 3, paragraph 3.

authorization of international facilities. It concluded, as did Mr. Hubbell, that the Commission's use of these reports for the purpose of international facilities planning is not appropriate. Instead, it suggested that the data provided pursuant to section 214 of the Communications Act, 47 U.S.C. § 214 (1976), and the facility planning processes established in three regions of the world would furnish a more effective basis upon which to plan facilities. To support this conclusion, AT&T listed several benefits of section 214 Applications and the facilities planning processes as sources of reliable data including the consideration of "circuit forecasting, circuit engineering, costs, available existing facilities, diversity, redundancy, restoration and economic conditions affecting the carrier and its correspondents."[9] According to AT&T, the data provided by these alternative means are both historical and prospective, rather than merely historical like the data reported under § 43.61, and presumably are thus more complete indicators of future traffic patterns.

(2) Discussion

12. Under § 43.61, data are provided by each carrier for each service on both a global and country-to-country basis, specifying whether the traffic originated or terminated in the United States or merely transited this country. In evaluating new requests for international facilities, the Commission requires data with the scope and detail provided by § 43.61 reports. Such scope and detail is not always found in the alternative data sources mentioned by AT&T. An equally important advantage of the § 43.61 reports in assisting the Commission to evaluate requests to construct facilities is the convenient manner in which the data are arranged. Section 43.61 reports collate detailed traffic data in a small number of clear, concise reports, thereby saving some of the Commission's resources that would otherwise be spent piecing together the data included in a plethora of section 214 applications. Further, the § 43.61 reporting requirement enables the Commission to acquire the most up-to-date data on international traffic on a regular basis. If the Commission were to depend solely on section 214 applications and the facilities planning processes, it would often be forced to use antedated traffic data while it awaits the sporadic filing of carrier applications.

[9] Comments of American Telephone and Telegraph Company, p.5, note **, received September 24, 1984.

13. The § 43.61 reports are also critical to the Commission's long-term industry analysis efforts. In fact, for this reason alone, Mr. Hubbell concluded that the Commission is justified in requiring the reports. As we usher in an overall policy of enhanced competition in the rapidly developing international telecommunications industry, we require comprehensive, detailed and up-to-date traffic data in order to analyze the success or failure of our policies in the world's various geographical and service markets. If, as time goes on, the data reveal a competitive environment in one or more markets, the Commission would be able to increasingly deregulate the industry. Section 43.61 reports are invaluable to the Commission in order for it to accomplish this objective wisely.[10]

14. Thus, for various reasons, § 43.61 reports assist the Commission in furthering the public interest. We affirm the need for the continuation of these reports.

B.(1) The Semi-Annual Report

15. In the Notice, we stated that we are considering the elimination of the semi-annual reporting requirement of § 43.61. We solicited comments to ascertain whether the public interest benefits obtained from the continued requirement of a semi-annual report outweighed the burden that the requirement imposes upon the carriers and the Commission staff.

16. In response to the Notice ITT, RCA, TRT and WUI advocated the retention of the semi-annual reporting requirement. All expressed views that the semi-annual data provide a useful management tool, allowing a carrier to make more informed business choices. ITT also argued that the data would enhance the Commission's ability to regulate based upon current information rather than speculation. ITT added that the continuation of this half-year reporting requirement would not substantially burden the Commission, since we already posses the necessary computer programs to efficiently process the data. AT&T, Hawaiian and Mr. Hubbell, on the other hand, urged that the semi-annual report requirement be eliminated. AT&T and Hawaiian questioned the accuracy of the semi-annual reports due to the inability of the carriers to gather the actual traffic data by the time that the semi-annual report must be filed. Hawaiian also stated that the elimination of the reporting requirement would save considerable resources for both the carriers and the Commission.

17. In the Further Notice, we tentatively concluded that Section 43.61's semi-annual reporting requirement should be eliminated. We found semi-annual reports to be of little use to the Commission and not otherwise necessary to satisfy the private business requirements of the carriers.

18. In response to the Further Notice, AT&T, Hawaiian, GTE and RCA explicitly endorsed our tentative conclusion, RCA reversing its position taken in response to the Notice. However, TRT and ITT, in support of the semi-annual reporting requirement, argued that the requirement aids the Commission as well as the carriers by providing the most up-to-date data possible on the industry. TRT added that currently available traffic data would greatly assist small and new carriers in their endeavors to obtain operating agreements with foreign administrations. It envisioned the scenario where a prospective carrier can obtain an agreement by using Section 43.61 data to demonstrate its strong growth potential. Both ITT and TRT concluded that to the extent that current information is made available, both the carriers and the Commission will be better able to monitor and respond to overall market trends.

(2) Discussion

19. The comments opposing our tentative conclusion have not persuaded us that the semi-annual reports are necessary for our regulatory needs or are otherwise mandated by the public interest. To begin with, the Commission is essentially engaged in evaluating

[10] In addition to having questioned the utility to the Commission of the § 43.61 reports, AT&T also questioned whether the government is soliciting information in these reports which ought to be treated as proprietary. Arguing that the disclosure of revenue and traffic data on a country-by-country basis enables each carrier to utilize the economic data of its competitors for its own marketing information, AT&T concluded that it is forced to suffer competitive harm as a result. It urged that at least some of the information currently required by § 43.61 should therefore be deemed proprietary and not be subject to filing requirements.

Though this argument was offered by AT&T to challenge the filing requirements of the rule, AT&T has not demonstrated that the filing of this information will cause competitive harm. Any harm which could occur would be caused by the disclosure of the data to AT&T's competitors rather than from the Commission's gathering of the information for its own regulatory purposes. If AT&T or any other carrier believes that disclosure of specific information which it submits pursuant to § 43.61 could harm it competitively, it should request confidential treatment at the time the information is filed. We have no basis for deciding at this time that future filings pursuant to § 43.61 will warrant confidential treatment although we do remind carriers that a specific request for confidential treatment should be supported by a clear and convincing argument concerning direct competitive harm.

long-term facilities needs and industry trends and would not be substantially assisted by semi-annual reports which record, at most, short-term variations in traffic activity. Further, a substantial proportion of the data included in a six-month report is based on estimates, thereby calling into question the report's reliability.

20. Though the individual carriers may be able to use Section 43.61 semi-annual data for their own business purposes, adequate substitutes are available elsewhere. For example, carriers obtain data every month from which they bill their customers. Further data can be obtained by consulting the annual § 43.61 reports and other reports on file with the Commission. To the extent that the carriers need more frequent or timely reports, it is their responsibility to generate them internally. Helping carriers make business decisions is not a valid reason for requiring them to report to the Commission. As to TRT's statement that the semi-annual reports would assist small and new carriers obtain operating agreements, the statement is entirely unsupported. We see no logic to the argument that semi-annual reports would have any more impact than annual reports for this purpose.

21. Eliminating the six-month report requirement will therefore have no significant negative impact on our ability to analyze applications, participate in the facilities planning processes or monitor the industry. Elimination of this reporting requirement would save the Commission and the carriers substantial resources. Accordingly, we will amend § 43.61 to eliminate the requirement of a semi-annual report.

C.(1) The Due Date for Filing the Annual Report

22. In the Notice, we announced that we were considering a change in the due date for filing the annual § 43.61 reports. The rule presently requires the annual reports to be filed by May 15 for the traffic data of the preceding calendar year. Delays in obtaining adequate data from the carriers' foreign correspondents and in processing this data caused us to question whether retaining the present May 15 due date would require the carriers to include an excessive number of estimates in their reports, thereby undermining the accuracy of the reported data. Comments were solicited concerning the extent to which actual data are available at particular dates in order to detemine the need for extending the filing date.

23. In response to the Notice the commenters submitted information on the proportion of the data that was estimated and the accuracy of these estimates. All carriers reported some need to estimate, but the proportion of estimates was significantly higher for AT&T than for the international record carrier. For example, whereas AT&T stated that approximately one half of its incoming phone data were estimated,[11] TRT stated that the proportion of estimates for its telex service was merely twelve percent.[12] Only three parties specifically addressed the question of whether to extend the due date for filing the annual reports. TRT opposed such an extension, contending that the need for currency in the reports outweighs the desirability of eliminating those small inaccuracies in the data which accompany an early due date. AT&T and Mr. Hubbell however, argued that the need for accuracy in the reports, in light of the significant proportion of extimates in the present data, necessitates that the due date be extended. AT&T suggested September 1 as the proper due date; Mr. Hubbell suggested September 31.

24. In the Further Notice, we attempted to balance the desire for fresh and usable data and the need for minimizing the number of revised or corrected reports. We tentatively concluded that the filing due date for the annual reports should be moved to July 31. None of the carriers offered any opposition to this proposal, and Hawaiian, GTE, AT&T and RCA explicitly endorsed it.

(2) Discussion

25. If we were to continue to require the reports to be filed by May 15, the time lag would force the need for estimation and, as a result, the accuracy of these reports could always be subject to question. Further, the integrity of the reporting rules would be undermined, as was indicated by the fact that five out of the ten carriers that filed their 1983 annual reports, faced with a May 15 deadline, did not submit their reports by June 15. On the other hand, were we to extend the due date to September, as AT&T and Mr. Hubbell originally suggested, the accuracy of these reports would improve but the data we would obtain would not be nearly as current.

26. We think that imposing a due date of July 31 would best balance the above considerations. In our view, this is the earliest time of the year that the carriers could acquire and process enough of the actual data to create acceptably accurate reports. We therefore will amend § 43.61 to alter the due date for filing annual reports from May 15 to July 31.

D.(1) Updating Errors and Estimates in the Annual Report

27. Presently, § 43.61 does not require carriers to revise or correct any estimates or errors in their annual reports.[13] As a result, the reliability of the reported data is subject to question. To address this problem, we stated in the Notice that we were considering requiring each carrier to submit a revised § 43.61 annual report by December 31. This report would be a complete report, including all of the latest available data for each service and country. We also announced that we were considering supplementing this revised report with a requirement that "substantial" errors subsequently discovered be reported as well. We requested comments on appropriate standards for defining "substantial" errors for each service and country reported. An example of possible substantiality thresholds for telephone service was provided.[14] These thresholds were based on a graduated standard for each country: the smaller the amount of revenue derived from a country, the larger the percentage of error which would trigger the filing requirement.

28. The conclusions of those who submitted comments to the Notice varied. All who addressed the issue recommended some form of requirement for the reporting of revisions, but there was little agreement as to how many revisions should be required or what criteria should be used, if any, to ferret

[11] Comments of American Telephone and Telegraph Company, p. 6.

[12] Comments of TRT Telecommunications Company, p. 4.

[13] Estimates and errors are now corrected by the carriers on a voluntary basis. The uncertainty as to who will file what data, and when, diminishes the usefulness of this process.

[14] The following substantiality thresholds were suggested for telephone service:

1. For countries with more than 10 million minutes or $10 million in revenues (excluding foreign payouts) or more than 1 million calls, an error that exceeds 1% of the figure in any category would require a report for all data of the country.

2. For countries with more than 5 million but less than 10 million minutes or dollars of revenue (excluding foreign payouts) or more than 500,000 but less than 1 million calls, an error that exceeds 2% of the figure in any cateogry would require a report for all data of the country.

3. For countries with more than 1 million but less than 5 million minutes or dollars of revenue (excluding foreign payouts) or more than 100,000 but less than 500,000 calls, an error that exceeds 3% of the figure in any category would require a report for all data of the country.

4. For countries with less than 1 million minutes or dollars of revenue (excluding foreign payouts) or less than 100,000 calls, an error that exceeds 4% of the figure in any category would require a report for all data of the country.

out those errors of sufficient substantiality to warrant revisions.

29. In the Further Notice, we tentatively concluded that requiring carriers to update all reported data in a complete, revised report would be unduly burdensome to the carriers. Also we tentatively concluded that § 43.61 data would substantially increase in reliability if corrections were submitted at least once. We specifically proposed a one-time submission, on October 31, of any inaccuracies contained in the annual report, in order to ensure the reliability of the Section 43.61 data without unduly burdening the carriers.

30. GTE and RCA explicitly endorsed the Commission's proposal in their comments to the Further Notice. Hawaiian and MCII, however, presented alternative proposals. Hawaiian suggested that there is no need to require filing any revised report, particularly not in October, only three months after the proposed annual report filing due date. Moving this due date from May 15 to July 31, should so greatly curtail the extent of inaccuracy in the annual report, it argued, that the remaining need for revisions could not justify imposing the substantial burden on the carriers that would result from requiring the submission of a revised report. Should the submission of revisions be required, Hawaiian added, then the Commission should require the reporting of only those inaccuracies measuring at least five percent of the traffic or revenue figure in the annual report. MCII, noting that our proposal did not have a substantiality threshold, stated that under the proposed requirement, the resubmission of data would be required for the vast majority of overseas points and, as a result, little or no reduction of reporting burdens would be achieved. MCII did not propose that we omit a revision requirement altogether, however. Instead, it suggested employing a threshold factor of $10,000, such that only those inaccuracies in the annual report greater than this figure would trigger a requirement that carriers report revisions. According to MCII, employing a $10,000 threshold would enable the Commission to substantially increase the reliability of the § 43.61 reports without unduly burdening the carriers by requiring them to remedy a large number of minor errors.

(2) Discussion

31. Upon consideration of the issue presented here, we conclude that our proposal in the Further Notice could place undue reporting burdens on the carriers. Though the need for reliability of the data submitted in the annual reports compels us to require carriers to submit revisions of substantial inaccuracies, we agree with MCII and Hawaiian that there is no need to require submissions of *all* inaccuracies, many of which would be minor. Our efforts in reviewing requests for facilities, in facilities planning and in industry monitoring will not be impaired by the use of data which are inaccurate by merely a few percentage points. In balancing our need for precise data with the desire not to unduly burden carriers, we have decided that inaccuracies up to five percent would be tolerable. Hence, we shall amend § 43.61 to require carriers to submit revisions of inaccuracies exceeding five percent of the figure included in the annual report, for each service, country and measurement unit (e.g. minutes, words, revenues, messages, etc.) reported.[15]

32. In order to ease the reporting burden on the carriers, we shall require that these inaccuracies need be corrected only in a one-time submission, on October 31. We choose October 31 as the due date for filing revisions in order to give the carriers three full months to double check the data included in the annual report and to acquire from foreign correspondents any relevant updates and corrections of such data.

E. (1) Revision of the Scope, Type and Format of § 43.61 Data

33. The final set of issues discussed in the Notice and Further Notice involve how best to structure the scope, type and format of § 43.61 data in light of the recent developments in international telecommunications and the Commission's experience in examining the usefulness of the data. In the Notice, we requested commenters to identify and provide information on those categories of actual and potential services that are not currently identified and reported separately. We requested suggestions specifying the appropriate measurement units that the carriers should use to report each service. We also solicited comments on whether the data should be reported by tariff classification or by broad generic category and whether data should be reported in a hand written form or in a computer readable format. We further requested commenters to discuss whether a need remains for the continued submission of data involving transiting traffic and traffic between the continental United States (CONUS) and offshore U.S. points.

34. Several new services were identified in the comments to the Notice, though no commenter attempted to demonstrate that any such service had generated a substantial amount of revenue. AT&T discussed two prospective services—international Dataphone and international WATS—and concluded that separate reporting requirements for these services would not yet be appropriate. TRT cited "packet switching" as a new service currently being offered yet not reported as a separate service under Section 43.61. In order to ease the reporting burden on the carriers, ITT proposed that a service must generate one million dollars in total annual industry revenues before we require separate reporting of the service. Mr. Hubbell recommended the addition of an "All other" category as a repository for minor services, so that all data on international traffic are included.

35. With respect to the appropriate measurement units for reporting services, AT&T advocated the deletion of any requirement that data be submitted on numbers of messages for each service. WU suggested that whenever more than one carrier supplies a particular service, the industry should meet to develop the appropriate measurement units. WU also proposed an industry meeting to address updating the list of countries which serves as the basis for the assignment of traffic to specific points and to consider the form of the existing market analysis as prepared by the Commission.

36. The carriers were divided in their assessment of whether the data should be reported by tariff classification or by broad generic category (e.g., telex, message telephone service, leased channels). WU summarily endorsed the former alternative, as did RCA in the context of certain developing services. Mr. Hubbell, on the contrary, argued that the only practical alternative is to report data in broad generic categories established by the Commission. Finally, with respect to the proper format of § 43.61 submissions, RCA suggested that the data be submitted in the form of magnetic computer tape, since the elimination of punch cards would substantially reduce the submission work effort.

37. A number of comments to the Notice analyzed the proper scope of the § 43.61 data. At least with respect to message telephone service, Mr. Hubbell argued that traffic linking the CONUS with overseas American points should be integrated into the domestic pattern and removed from the requirements of

[15] Carriers who believe that the five percent criterion would be unduly burdensome or would cause hardship may seek waivers for specific situations.

§ 43.61. Should the Commission decide to include such traffic under § 43.61, Mr. Hubbell added, then consistency would dictate that the Commission require submissions on Alaskan traffic as well. AT&T addressed these same reporting requirements and similarly concluded that they should be deleted, as they do not assist the Commission in planning international facilities. WU advocated continuing to require international record carriers to report data on traffic between the CONUS and American offshore points involved in rate integration. Both ITT and Mr. Hubbell urged the Commission to broaden § 43.61's scope to encompass U.S. international traffic to or from Mexico, Canada and Saint Pierre-Miquelon. Mr. Hubbell considered such information helpful in order for the Commission to conduct industry analyses. Finally, WU, AT&T and Mr. Hubbell all urged the continuation of reporting requirements for transiting traffic, though the latter two recommended requiring the information on a less detailed basis in order to ease the reporting burden on the carriers.

38. In the Further Notice, the Commission reached several tentative conclusions as to the scope, type and format of the required data. We tentatively concluded that changes in the reporting requirements are needed to clarify and simplify the information reported in certain categories. First, we found "program service" to be an ambiguous category for which aggregate data are not useful, particularly in view of significant traffic growth. In order to clarify the information received, we proposed that § 43.61 should be modified to specify that audio program transmission service, on the one hand, and occasional use television transmission and reception services, on the other, should be reported separately. Second, we tentatively concluded that the requirements pertaining to the information filed for leased channels should be modified to assure that newly developed, high speed leased channel services are adequately reported, to ease the reporting burden on the carriers by decreasing the number of transmission rate categories reported and to simplify the Commission's task in interpreting the data by making the specification of transmission rates more uniform. In order to achieve the above goals, we tentatively concluded that a group of eight reporting categories for leased channel services should be employed, in lieu of current requirements. Third, with respect to the scope of § 43.61, we tentatively concluded that § 43.61 should be modified to require carriers to submit data for U.S. traffic to or from Mexico, Canada and Saint Pierre-Miquelon. We found such data vital to the Commission to properly analyze the international market, as our monitoring efforts become more sophisticated and as more carriers apply to provide service to these points. We did not propose the elimination of the requirement to report data for offshore U.S points (Puerto Rico, Hawaii, etc.), for such data were found helpful to the Commission's efforts in the planning and authorization of international facilities.

39. The comments to the Further Notice revealed that the carriers generally supported our tentative conclusions on the scope, type and format of the § 43.61 data. TRT, RCA, MCI, GTE and Hawaiian raised no objections to these tentative conclusions in their comments. Western Union generally endorsed these proposals as well, though it added that it would be technically impossible, at the present time, for it to separate out Telex I traffic between the CONUS and foreign points on the North American continent from its intra-CONUS Telex I traffic.

40. The two carriers which were dissatisfied with the proposals were AT&T and ITT. AT&T suggested that if the Commission continues to require § 43.61 reports to be filed, the competitive harm AT&T would suffer from the disclosure of data would be minimized if § 43.61 were at least amended to require the reporting of data on an aggregate basis by world regions (e.g., Europe, Central America, South America, etc.) rather than on a country-by-country basis. AT&T also reiterated its comments to the Notice urging that data regarding traffic between the CONUS and offshore U.S. points are not necessary to the Commission and should not be required. AT&T further found no warrant in broadening the scope of § 43.61 to include traffic between the CONUS and foreign points on the North American continent.

41. ITT urged the Commission to require information concerning the operations of the international resale carriers. ITT also suggested that the Commission should obtain data on the domestic, as well as the international links for tariffed and non-tariffed record services, in order to monitor the competitiveness of the record services' markets. In its Reply comments, Western Union responded that ITT's latter suggestion exceeded the scope of this proceeding, which solely addresses the Commission's need to obtain information on international common carrier communication services.

(2) Discussion

(i) Services To Be Reported and the Proper Manner of Reporting Them

42. Of the new services mentioned in the comments, AT&T's international Dataphone service and various packet switching services provided on a common carrier basis stand out as services that may have already generated a non-trivial amount of international traffic for which there are no separate reporting requirements. Nevertheless, the traffic levels for packet switching services are not yet substantial and Dataphone is now reported within the switched voice category (IMTS). Therefore, we see no need, at this time, to require the reporting of either Dataphone or common carrier packet switching as separate service categories. Instead, we shall, as necessary, contact AT&T and the major packet switching common carriers in order to gauge the size of their international market. We shall, if needed, solicit data on these common carrier services in particular future proceedings. In the interim, the reporting of traffic provided via packet switching or other services newly offered or not specifically falling within a particular filing category shall be governed by the miscellaneous filing requirement of § 43.61(g), now redesignated.[16]

43. Upon examination of the comments to the Notice and Further Notice and our own analysis of the information filed pursuant to § 43.61, we shall order several changes in the categories used for differentiating services and for measuring data for these services. Program transmission service is an ambiguous category for which aggregate data are not useful to the Commission, particularly in light of significant traffic growth. AT&T's report specifically indicates that it combines audio program service with occasional use television transmission and reception services. RCA and ITT do not indicate whether occasional use television transmission and reception services are included in their report of program transmission service. A number of carriers report no traffic under this service category. In order to clarify the information received, we shall amend § 43.61 to specify that audio program transmission service and occasional use television transmission and reception services be reported separately. We note that this modification does not impose any new filing requirement but

[16] We shall clarify this section to establish it as an "all other" provision as suggested by Mr. Hubbell. By so doing, total market figures can be calculated.

merely seeks to change the manner in which the data are filed so that we may more effectively monitor the growing international video market.

44. We also have concluded that the requirements pertaining to the information filed for leased channels shall be amended to reduce the burden on the carriers by eliminating unnecessary detail and to provide the necessary information in a more useful form. Currently, the data on leased channels are not reported in the same manner by all carriers. The carriers report leased channels by transmission speeds using a variety of measures such as words-per-minute, bands and, in the case of one carrier, bits-per-second. The carriers also report the uses to which the customers put the channels they lease as is required by the existing rule.

45. The fact that leased channels are being provided in a widening range of transmission speeds and increasing use of digital transmission technology in providing leased channels will increase the already large number of individual items of information the carriers will have to report under the current rules and may further complicate the reporting of transmission speeds. We have concluded that the leased channel information filed by the carriers can be made more useful to us and the carriers' burden in filing that information can be substantially reduced by amending our rules to require that all leased channels be classified into four categories by transmission speed and reported in that manner. The four categories of leased channels to be reported are as follows:

Leased channels with transmission speeds of:

a. Up to 1200 bits;

b. Over 1200 bits and up to 9600 bits;

c. Over 9600 bits and up to 30 megabits/18 megahertz; and

d. Over 30 megabits/18 megahertz and up to 120 megabits/72 megahertz.

These four categories correspond approximately to leased channels of less than voice circuit capacity, leased channels of voice circuit capacity, medium to high speed data transmission channels and leased satellite transponders or fractional transponders.

46. Under the amended rule, only the number of leased channels in each of these four categories will have to be reported. Thus, it will no longer be necessary for carriers to report leased channels of each discrete transmission speed individually. To further reduce the burden of complying with this rule, we shall also eliminate the requirement that carriers report the uses to which customers put leased channels. This action will further reduce the number of individual entries the carriers must include in their reports. Use of a single measure for transmission speed of the leased channels will both simplify reporting by the carriers and make the information more useful.[17]

47. Further, after analyzing the need to require the carriers to submit revenue data, we have decided to continue to require such data to be reported. These data will be needed to perform economic analyses in connection with various proceedings and to evaluate the industry's development towards a competitive market. In particular, revenue data will be needed to compute market shares, concentration ratios, and growth trends in different markets. Traffic data, while useful for other purposes, cannot be used to compute these kinds of statistics.

48. The commenters have proposed several additional changes to the reporting requirements of § 43.61 which we have decided not to implement for the present time. First, one such proposal advocated the deletion of the requirement that the carriers report numbers of messages. No evidence was provided which suggests that this requirement is particularly burdensome to the carriers. Since the Commission has found the data on number of messages to comprise a useful tool in monitoring industry trends, the requirement will not be deleted at this time. Second, it was recommended that the data be submitted in the form of magnetic computer tape rather than punch cards. Currently, we are endeavoring to coordinate the formats of several types of documents reported to the Commission. We may not change the format in which the carriers must file reports until after this coordination effort is complete. Nevertheless, we do recognize that the continued use of punch cards may not be the best long-term solution. We will therefore delegate to the staff authority to revise the format to use more modern computer processing alternatives or, if it is more efficient, to use hard copy reports in a standard format.[18] Third, we see no need for industry meetings to address the requirements of § 43.61. Such industry meetings would be a burden on both our own and the carriers' resources without providing proportionate benefits to the carriers or the Commission. We may in the future consider less burdensome, informal alternatives to industry meetings in order to obtaining the necessary carrier input for reporting § 43.61 data. Fourth, we will continue to differentiate services according to broad generic categories, despite the comments to the effect that tariff classifications should form the basis of service differentiation. We believe that service differentiation by tariff classification would require overly detailed service breakdowns, significantly burdening the carriers without offering and additional benefits to the Commission. Such classifications also may vary over time, thereby reducing the ease by which the Commission can meaningfully compare data on the same service for different points in time. Finally, we believe that effective monitoring and analysis requires the filing of data on a country-by-country basis rather than region-by-region. Country-by-country data are crucial to the Commission's effort in identifying and analyzing discrete geographical markets in order to analyze the international telecommunications industry. The detail provided by the reporting of data for every country will also support the Commission's efforts in facilities planning and requests for facilities authorizations. AT&T's challenge to this requirement was based on the premise that the reporting and public disclosure of data on a country-by-country basis would place AT&T at a competitive disadvantage. However, no evidence was provided to substantiate this claim, see *supra*, note 4.

(ii) The Scope of § 43.61

49. Section 43.61 currently requires carriers to file reports on traffic between the CONUS and "overseas points."[19] Overseas points are quite literally defined in § 43.61(a)(9) to include all overseas territories or possessions of U.S. as well as the State of Hawaii, but to exclude Alaska, Canada, Mexico and Saint Pierre-Miquelon, all of which are considered parts of the North American continent. Section 43.61 shall be amended to exclude traffic between the CONUS and off-shore domestic points. Section 43.61 shall not be amended to include traffic between the CONUS and foreign points on the North American continent (i.e. Canada, Mexico and Saint Pierre-Miquelon).

50. Information on traffic between the CONUS and certain off-shore domestic points is utilized by the Commission in analyzing international facilities proposals, since one facility may carry both domestic and international traffic. However, the information provided by

[17] For category c., the carriers may use either megabits per second or megahertz of transponder bandwidth to define the reporting category.

[18] We shall also delegate to the staff authority to revise the § 43.61 filing manual.

[19] See 47 CFR 43.61(b)

the carriers to the Commission in international facilities planning dockets is adequate in this regard. With respect to international, intra-North American traffic, the scope of § 43.61 will not be broadened to include such traffic. Due to the integration of the foreign North American points with the U.S. domestic network, broadening the scope of § 43.61 to include intra-North American traffic would not assist the Commission in evaluating international facilities proposals. Further, from an operational and engineering point of view, these points are so integregated with the domestic network as to possibly render unduly burdensome any requirement that the carriers file data on traffic between these points and the United States. For example, in its comments to the Further Notice, Western Union stated that it would be technically impossible, at the present time, for it to separate out Telex I traffic between the CONUS and foreign points on the North American continent from its intra-CONUS Telex I traffic.

51. All interested parties agreed that the Commission should continue to require the reporting of data on "transiting traffic," see *supra*, note 6. However, two commenters questioned the detail in which we currently require the carriers to report such traffic. Specifically questioned was the efficacy of requiring breakdowns on number of messages, gross carrier revenues and whether such traffic is inbound or outbound. In view of these comments and the Commission's experience in utilizing transiting traffic data, much of the data required has significantly burdened the carriers without providing proportionate benefits to the Commission. We shall amend § 43.61 to eliminate the requirement that carriers report the number of messages of transiting traffic for various services. We shall also amend § 43.61 to require that carriers simply report transiting traffic by the country which originated the traffic instead of requiring carriers to categorize transiting traffic as inbound and outbound and to aggregate all inbound (terminating and transiting) and outbound (originating and transiting) traffic, respectively.

52. We also conclude the the carriers shall not be required to report, pursuant to § 43.61, data on the domestic, non-overseas links for tariffed and non-tariffed record service traffic, as was suggested by ITT. Such data would not assist the Commission either in monitoring the international industry or in planning international facilities. Any other benefits which may accure from accumulating such data are extraneous to the purpose of § 43.61 and the goals of this proceeding.

53. Finally, in response to the suggestion that international resellers should be required to file § 43.61 reports, we note that international resale common carriers are already required to file reports.

54. Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96-354), it is certified that section 603 and 604 of the Act do not apply because these rule changes will not, if promulgated, have a significant economic impact on a substantial number of small entities. See 5 U.S.C. section 603, 604, 605(b). Instead, the rule changes will affect only entities large enough to invest the substantial amount of capital necessary to compete in the international telecommunications industry.

55. The order contained herein has been analyzed with respect to the Paperwork Reduction Act, 44 U.S.C. 3504 (h) (3) (1980), and found to impose new or modified requirements of burden upon the public. Implementation of any new or modified requirement or burden will be subject to approval by the Office of Management and Budget as prescribed by the Act.

56. Accordingly, it is ordered, pursuant to sections 4(i), 4(j), 219, 220(a), 303(r), 403 and 404 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 219, 220(a), 303(r), 403 and 404 (1970), that the policies and rules set forth herein are adopted as a final decision in CC Docket No. 79-262.

57. It is further ordered that § 43.61 of the Commission's Rules and Regulations is hereby amended, effective 30 days after publication of this Report and Order in the **Federal Register**, as reflected in the Appendix. Although effective 30 days after publication in the **Federal Register**, these amendments shall not apply to any § 43.61 reports covering calendar-year 1984 traffic. 1984 traffic data shall be filed under the pre-existing rules.

58. It is further ordered that CC Docket No. 79-262 is hereby terminated.

59. It is further order that the Secretary shall cause a copy of this order to be published in the **Federal Register** and shall mail a copy of this Report and Order to the Chief for Advocacy of the Small Business Administration.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 43—[AMENDED]

It is ordered that Part 43 of the Commission's rules 47 CFR Part 43, is amended as follows:

1. The authority citation for Part 43 continues to read as follows:

Authority: Secs. 4, 219, 220(a), 303, 48 Stat., as amended, 1073, 1077.

2. Section 43.61 is amended as follows:

a. Paragraph (a)(1) is revised to read:

§ 43.61 Reports of overseas telecommunications traffic.

(a) * * *

(1) Telecommunications service between the continental United States and overseas points means the transmission or reception of communications by cable or radio (i) which originate or terminate at points within the area comprising the continental United States and Alaska and terminate or originate at points located outside the area comprising the continental United States, Alaska, Canada, Saint Pierre-Miquelon, Mexico and off-shore U.S. points, and (ii) which both originate and terminate outside but transit the continental United States or Alaska, except communications both originating and terminating at points located in the aforementioned area.

* * * * *

b. Paragraph (a)(9) is revised to read:

(a) * * *

(9) "Overseas point" means: (i) For reports required by paragraph (b) of this section, any country or point located outside the area comprising the continental United States, Alaska, Canada, Saint Pierre-Miquelon, Mexico and off-shore U.S. points; and (ii) for reports required by paragraph (c) of this section, all points outside the particular state, territory, or possession for which a report is required.

* * * * *

c. Paragraph (a)(12) is revised to read:

(a) * * *

(12) "Paid traffic handled" means all communications for which charges are collected and which are actually handled over facilities operated by the respondent out of or into the continental United States or Alaska.

* * * * *

d. Paragraph (a)(14) is revised to read:

(a) * * *

(14) "Program service" means the transmission and reception of audio program material for delivery to a

broadcasting station for broadcasting to the public, or the monitoring of programs broadcast abroad, for which a charge is made on a time basis.

* * * * *

e. Paragraph (a)(15) is revised to read:

(a) * * *

(15) "Revenues accruing to respondent" means the revenues from the overseas haul, consisting of total charges paid by the public for the particular service after deduction of such portions thereof as are applicable to terminal handling in the continental United States or Alaska and, where connecting or other carriers perform a part of the service, such portion paid to or retained by such connecting or other carriers: *However*, for telephone message and overseas teleprinter exchange services, revenues accruing to respondent mean the total revenues paid by the public for such services after deduction only of that portion of total revenues paid to or retained by connecting or other carriers which perform part of the service outside the continental United States or Alaska.

* * * * *

f. Paragraphs (a) (16) and (17) are redesignated as paragraphs (a) (17) and (18), respectively.

g. New paragraph (a)(16) is added to read:

(a) * * *

(16) "Occasional use television transmission and reception service" means the transmission or reception of television signals for which a charge is made on a time basis.

* * * * *

h. Newly redesignated paragraph (a)(17) is revised to read:

(a) * * *

(17) "Transiting traffic" means: (i) For reports required by paragraph (b) of this section, communications which both originate and terminate outside but transit the continental United States or Alaska except communications both originating and terminating in the area comprising Canada, Saint Pierre-Miquelon, Mexico and off-shore U.S. points; and (ii) for reports required by paragraph (c) of this section, communications which originate and terminate outside but transit the particular state, territory, or possession for which a report is required.

* * * * *

i. Paragraphs (b) and (c) are revised to read:

* * * * *

(b) Each common carrier engaged in furnishing telecommunications service between the continental United States or Alaska, and overseas points shall file with the Commission a report in triplicate with respect to such overseas telecommunications, not later than July 31 of each year for the preceding period of January through December, as provided hereafter in this section.

(c) Each common carrier engaged in furnishing telecommunications service between a United States point outside the continental United States and Alaska, and overseas points shall file with the Commission a report in triplicate with respect to such overseas telecommunications not later than July 31 of each year for the preceding period of January through December. This report shall contain the information required by paragraphs (f) (1)(ii), (2)(ii), (3)(ii), and (8) of this section, excluding leased channel service with the continental United States or Alaska. In applying such paragraphs and definitions contained in paragraph (a) of this section, the state, territory, or possession for which the report is made should be substituted for the words, "continental United States or Alaska"; when applicable.

* * * * *

j. Present paragraph (d) is redesignated as paragraph (e). A new paragraph (d) is added to read as follows:

* * * * *

(d) Each reporting carrier shall submit a revised report by October 31 identifying and correcting any inaccuracies set forth in the annual report exceeding five percent of the reported figure.

* * * * *

k. Present paragraph (e) introductory text, and (e)(1) through (6) are redesignated as paragraph (f) introductory text and (f)(1) through (6), respectively. Newly redesignated paragraph (f) introductory text, (f)(1)(i), (2)(i), (3)(i), (4)(i) and (6)(i) are revised to read as follows:

(f) The reports required by this section shall show, where applicable, the following information, separately, for outbound traffic, inbound traffic and traffic which transits the continental United States or Alaska; information totals for transiting traffic shall be reported according to the country originating the message: *Provided, however*, that the provisions with respect to the showing of transiting traffic shall not apply to paragraphs (f) (1)(ii), (2)(ii) and (3)(ii) of this section; *Provided, also*, that for each service reported, the number of messages need not be reported for transiting traffic.

(1) For message telegraph service: (i) The number of messages and chargeable words of all classes of paid traffic combined handled with each overseas point of destination or origin, and the corresponding revenues accruing to the respondent; and for outbound traffic, the amounts of payouts to connecting carriers, other than for terminal handling in the continental United States or Alaska shall also be shown;

* * * * *

(2) For message telephone service: (i) The number of messages and chargeable minutes of all classes of paid traffic combined handled with each overseas point of destination or origin, and the corresponding revenues accruing to the respondent; and for outbound traffic, the amounts of payouts to connecting carriers, other than for terminal handling in the continental United States or Alaska, shall also be shown;

* * * * *

(3) For overseas teleprinter exchange service: (i) The number of messages and chargeable minutes of all paid traffic handled with each overseas point of destination or origin, and the corresponding revenues accruing to the respondent; and for outbound traffic, the amount of payouts to connecting carriers, other than for terminal handling in the continental United States or Alaska, shall also be shown;

* * * * *

(4) For facsimile, cablephoto, and radiophoto services: (i) The number of messages of all paid traffic handled with each overseas point of destination or origin, and the corresponding revenues accruing to the respondent; and for outbound traffic, the amounts of payouts to connecting carriers, other than for terminal handling in the continental United States or Alaska, shall also be shown.

* * * * *

(6) For program service: (i) The number of chargeable minutes of all paid program service handled with each overseas point of destination or origin, and the corresponding revenues accruing to the respondent; and for outbound traffic, the amounts of payouts to connecting carriers other than for terminal handling in the continental United States of Alaska, shall also be shown.

* * * * *

l. Present paragraphs (e) (7), (8), and (9) are redesignated as paragraphs (f) (8), (9) and (10), respectively. A new paragraph (f)(7) is added to read as follows:

(f) * * *

(7) For occasional use television transmission and reception services: (i) The number of chargeable minutes of all paid service handled with each overseas point of destination or origin, and the

corresponding revenues accruing to the respondent; and, for outbound traffic, the amounts of payouts to connecting carriers other than for terminal handling in the continental United States of Alaska, shall also be shown.

* * * * *

m. Newly redesignated paragraph (f)(8)(i), (f)(9)(ii) and (f)(10) are revised to read as follows:

(f) * * *

(8) For addressed press service: (i) The number of chargeable minutes of all paid addressed press service transmitted from or received in the continental United States or Alaska separately, and the corresponding revenues accruing to the respondent.

* * * * *

(9) * * *

(ii) (*a*) The number of leases in effect on the last day of the period covered in the report with: (*1*) United States Government agencies, (*2*) foreign governments, (*3*) press entities, and (*4*) other users, separately for cable and radio operations between the continental United States or Alaska and each overseas point; (*b*) For each type of user, the number of leases shall be further reported as to (*1*) The number of each channel provided in each of the following ranges of transmission speeds:

(*i*) Up to 1200 bits,

(*ii*) over 1200 bits and up to 9600 bits,

(*iii*) over 9600 bits and up to 30 megabits/18 megahertz,

(*iv*) over 30 megabits/18 megahertz and up to 120 megabits/72 megahertz;

(*2*) Service furnished for "Full Period" (twenty-four hours per day) and for each "Short Period" (less than twenty-four hours per day).

* * * * *

(10) Total amount collected from users in the continental United States or Alaska for overseas telecommunications services: (i) The total amount collected by the respondent directly from users in the continental United States or Alaska, showing (*a*) receipts from message telegraph service, (*b*) receipts from message telephone service, (*c*) receipts from overseas teleprinter exchange services, (*d*) receipts from leased channel services, (*e*) receipts from other telegraph services and (*f*) receipts from other telephone services.

* * * * *

n. Present paragraph (f) is revised and redesignated as paragraph (g) to read as follows:

(g) This section shall apply, where applicable, to any overseas telecommunications service which is not separately indentified in paragraph (f) of this section. The carriers shall list the names of such services and aggregate all revenues obtained from providing these services.

[FR Doc. 85-12530 Filed 5-24-85; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-1135, RM-4581, RM-4673; MM Docket No. 84-378, RM-4300 et al.]

TV Broadcast Stations in Cullowhee and Andrews, NC, and Roswell, GA; et al.

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein: (1) Assigns UHF TV Channel 50 to Opelika, Alabama, as that community's second local television channel, at the request of Lynn Henley; (2) assigns UHF TV Channel 23 to Dalton, Georgia, as that community's first local channel, at the request of Family Television; (3) denies the request of Jess Jimenez to assign Channel 59 to Roswell, Georgia, and to substitute noncommercial educational Channel *24 for Channel *59 at Andrews, North Carolina; (4) denies the request of Richard Towe to assign Channel 63 to Knoxville, Tennessee; and (5) denies the request of Chattanooga Family Television, Inc., to assign UHF TV Channel 23 to Chattanooga, Tennessee.

EFFECTIVE DATE: June 13, 1985.

ADDRESS: Federal Communications Commission, Washington, D.,C. 20554.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

First Report and Order

In the matter of amendment of § 73.606(b), table of assignments, television broadcast stations (Cullowhee and *Andrews, North Carolina, and Roswell, Georgia)* MM Docket No. 83-1135, RM-4581, *RM-4673*. Amendment of § 73.606(b), table of assignments, television broadcast stations *(Knoxville, Chattanooga,* and Athens, *Tennessee, Opelika* and Arab, *Alabama, Dalton,* and Monroe, *Georgia,* and Bowling Green, Kentucky) MM Docket No. 84-378, *RM-4300* RM 4442, *RM-4353 RM-4493, RM-4396* RM-4604, RM-4441.

Adopted: April 30, 1985.

Released: May 7, 1985.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the *Further Notice of Proposed Rule Making*, 49 FR 19070, published May 4, 1984, wherein we proposed several optional assignment plans to provide television service to various communities in Alabama, Georgia, Kentucky, North Carolina, and Tennessee. This *First Report and Order* concerns only the proposed allocations for Opelika, Alabama, Dalton and Roswell, Georgia, Knoxville, Tennessee, and Chattanooga, Tennessee. We will issue a *Second Further Notice of Proposed Rule Making* requesting further comments on the remaining proposals.

2. As discussed in the *Further Notice*, the Commission had refrained from considering television allocation requests in the Atlanta, Georgia, area pending Commission consideration of an interference problem between Station WVEU (Channel 69), Atlanta, Georgia, and land mobile stations in the same area. Upon resolution of that proceeding,[1] we issued the *Further Notice* herein proposing eight optional assignment plans looking toward the assignment of television channels at nine communities, as follows:

City	Channel No.	
	Present	Proposed
Plan I		
Arab, AL		56-.
Opelika, AL	66	50 and 66.
Dalton, GA		23.
Monroe, GA		63.
Cullowhee, NC		31-.
Plan II		
Arab, AL		56-.
Opelika, AL	66	50 and 66.
Dalton, GA		23.
Monroe, GA		63.
Roswell GA		59.
Andrews, NC	*59	*24.
Plan III		
Arab, AL		56-.
Opelika, AL	66	50 and 66.
Dalton, GA		23.
Cullowhee, NC		31.
Knoxville, TN	6, 8, 10+, *15-, 26-, and 43+.	6, 8, 10+, *15-, 26-, 43+, and 63.
Plan IV		
Arab, AL		56-.
Opelika, AL	66	50 and 66.
Dalton, GA		23.
Roswell, GA		59.
Andrews, NC	*59	*24.
Knoxville, TN	6, 8, 10+, *15-, 26-, and 43+.	6, 8, 10-, *15-, 26-, 43+, and 63.
Plan V		
Arab, AL		56-.
Opelika, AL	66	50 and 66.
Bowling Green, KY	13, 40+, *53-, and 59+.	13, *24-, 40+, *53-, and 59+.
Cullowhee, NC		31-.

[1] *Memorandum Opinion and Order*, FCC 84-38, adopted February 3, 1984.

City	Channel No.	
	Present	Proposed
Athens, TN	*24	*63.
Chattanooga, TN.	3+, 9, 12+, *45, and 61–.	3+, 9, 12+, 23, *45, and 61–.
Plan VI		
Arab, AL		56–.
Opelika, AL	66	50 and 66.
Roswell, GA		59.
Bowling Green, KY.	13, 40+, *53–, and 59+.	13, *24–, 40+, *53–, and 59+.
Andrews, NC.	*59	*24.
Athens, TN	*24	*63.
Chattanooga, TN.	3+, 9, 12+, *45, and 61–.	3+, 9, 12+, 23, *45, and 61–.
Plan VII		
Arab, AL		56–.
Opelika, AL	66	50 and 66.
Dalton, GA		23.
Bowling Green, KY.	13, 40+, *53–, and 59+.	13, *24–, 40+, *53–, and 59+.
Cullowhee, NC.		31–.
Athens, TN	*24	*63.
Plan VIII		
Arab, AL		56.
Opelika, AL	66	50 and 66.
Dalton, GA		23.
Roswell, GA		59.
Bowling Green, KY.	13, 40+, *53–, and 59+.	13, *24–, 40+, *53–, and 59+.
Andrews, NC.	*59	*24.
Athens, TN	*24	*63.

Five communities seek their first local service, one seeks a second local noncommercial educational service, one seeks its sixth service and one seeks its seventh. Based on these facts and the comments before us at this stage, we believe the public interest would be best served by the adoption of this *First Report and Order.*

3. *Opelika, Alabama:* At the request of Lynn Henley ("Henley"), the Commission proposed the assignment of UHF TV Channel 50 to Opelika, Alabama, as that community's second local television channel. Comments in response to the *Further Notice* were filed by Henley reiterating an intent to apply for the channel, if assigned. No oppositions or other comments in response to this proposal were received.

4. *Roswell, Georgia:* Jess Jimenez ("Jimenez") requested the assignment of Channel 59 to Roswell, Georgia, as that community's first local television assignment, by substituting Channel *24 for unoccupied and unapplied for noncommercial educational Channel *59 at Andrews, North Carolina. The assignment of Channel *24 at Andrews conflicts with the proposed assignment of Channel 31 at Cullowhee, North Carolina, and the current assignment of Channel *24 at Athens, Tennessee. The assignment at Roswell requires a site restriction of at least 1.1 miles north to avoid short-spacing to unoccupied and unapplied for educational Channel *57 at Atlanta, Georgia, and the assignment of Channel *24 at Andrews requires a site restriction of at least 5.7 miles north to avoid a short-spacing to Station WGKX, Channel 24, Macon, Georgia. Jimenez filed comments reiterating his interest in the Roswell assignment. He states that Roswell (population 23,337) [2] is situated in Fulton County (population 589,904) and that the county is the center of the Atlanta Standard Metropolitan Statistical Area ("SMSA") which has a population of 2,029,710 persons. He contends that the allocation at Roswell would "best serve the public interest by bringing new television service to areas having the greatest need." No other comments on the Roswell or Andrews allocation were received.

5. *Knoxville, Tennessee:* Comments were submitted on behalf of Richard Towe ("Towe") in place of the original petitioner, David Allen Crabtree, supporting the assignment of UHF TV Channel 63 to Knoxville. The assignment could provide Knoxville with its sixth local commercial television channel. The assignment of Channel 63 at Knoxville conflicts with the assignment of noncommercial educational Channel *63 at Athens, Tennessee (to accommodate Channel 23 at Chattanooga, Tennessee, and Channel *24 at Bowling Green, Kentucky) and the assignment of Channel 63 to Monroe, Georgia. According to Towe, Knoxville serves as the hub of the Knoxville SMSA which is comprised of Knox, Blount, Anderson and Union Counties, with an aggregate population of 476,517 persons. Towe submits that the assignment of a second noncommercial educational channel at Bowling Green would not serve the public interest as effectively as an additional assignment at Knoxville. He states that a "quick comparison of the ratio of population served to that of the total number of television allocations for a given location justifies our position that more people would benefit from the assignment of Channel 63 to Knoxville, Tennessee."

6. Towe also questions the necessity of substituting Channel *63 for Channel *24 at Athens, Tennessee, in order to accommodate the use of Channel 23 at Chattanooga. Towe submits that the substitution at Athens solely to allow Chattanooga Family to utilize its preferred site in light of the desired use of Channel 63 at Knoxville should not be overriding. He submits that a Channel 23 allocation at Chattanooga can be sited and meet the spacing requirements, over a large area to the east, southeast and south of Chattanooga, not just on Lookout Mountain. Further, he contends that there are other channels available for Athens if the assignment of Channel 23 at Chattanooga is not acceptable without such an exchange of channels. Therefore, based on his findings, he asks that Chattanooga Family be requested to explore these possibilities before the Commission makes a final decision.

7. As to the conflict with the proposed assignment at Monroe, Georgia, Towe claims that both communities can receive Channel 63 assignments. He states that the intervening ranges of the Appalachian Mountains would shield each signal from interference. However, should the Commission decide that Channel 63 can be assigned to only one community, he argues that Knoxville should receive the channel based on its larger population. He also states that Monroe is not without television service as it is within the reception area of stations assigned to Atlanta, Athens and Macon, Georgia.

8. *Chattanooga, Tennessee:* Chattanooga Family Television, Inc. ("Chattanooga Family") filed comments reiterating its interest in the assignment of UHF TV Channel 23 to Chattanooga, as that community's fifth local commercial channel. Channel 23 can be assigned to Chattanooga if Channel *63 is substituted for noncommercial educational Channel *24 at Athens, Tennessee, which is unoccupied and unapplied for. The assignment of Channel 23 at Chattanooga conflicts with the assignment of Channel 23 at Dalton, Georgia. In support of its request, Chattanooga Family states that the community is the center of a six-county SMSA comprised of Hamilton, Marion, and Sequatchie Counties in Tennessee, and Catoosa, Dade and Walker Counties in Georgia, with a combined population of 420,873 persons and claims that the assignment would best serve the public interest "by bringing needed new television services to the largest population."

9. *Dalton, Georgia:* At the request of Family Television ("Family") we proposed the assignment of UHF TV Channel 23 to Dalton, Georgia, as that community's first local TV allocation. Comments were filed by Family requesting that Channel 53 be assigned to Dalton in lieu of Channel 23, which it stated could be accomplished in compliance with the separation requirements.[3] It also appended letters

[2] Population figures are taken from the 1980 U.S. Census, unless otherwise indicated.

[3] In late-filed "Correcting Comments," Family acknowledges that Channel 53 at Dalton would

Continued

from several community residents expressing their support for a television channel at Dalton. The assignment of Channel 23 at Dalton requires a site restriction of 6.1 miles west of the community.

Discussion

10. We believe that Channel 50 should be assigned to Opelika, Alabama, as that community's second local television allotment. The channel can be assigned in compliance with the Commission's minimum distance separation requirements and it does not conflict with any of the proposals under consideration in this proceeding.

11. For the reasons discussed below, we believe that the requested assignments at Roswell, Knoxville and Chattanooga should be denied. As discussed in the *Further Notice*, the University of North Carolina ("UNC") submitted comments expressing serious problems with the request of Jimenez to substitute Channel *24 at Andrews in order to accommodate a Channel 59 assignment at Roswell. It states that the use of a Channel *24 assignment at Andrews is unlikely because of major siting difficulties. Specifically, it states that the only viable site within the restricted area would be in the Natahala National Forest and that due to intervening terrain, an antenna of at least 2,400 feet above ground would be needed to provide the required city-grade coverage. UNC also noted the great reluctance of the Federal Aviation Administration ("FAA") in approving the construction of antenna towers higher than 2,000 feet because of possible air hazards, citing § 77.17 of the FAA rules.

12. Based on this information submitted by UNC, the Commission requested Jimenez or any other interested party to provide a showing that a transmitter site was available for the proposed Andrews channel which could be located outside the Natahala National Forest and provide the requisite city grade signal, or that the necessary approval for the use of the site and erection of the tall tower could be obtained from the proper Federal agency.

13. Typically, the Commission believes that issues relating to use of a particular site and signal coverage are ones which are more properly raised at the application stage. To do so here, however, may adversely affect the provision of a first local noncommercial educational service at Andrews. UNC has outlined problems which could make the institution of an educational service unlikely, if not impossible. Where a transmitter may need to be located on public lands, such as that Nathala National Forest, and an extremely tall tower erected which would pose problems vis-a-vis FAA clearance, the Commission generally requires a showing that a site is available which could receive the approval of the necessary Federal agencies and provide the requisite service to the community. See *Bay Shore, New York, et al.*, 25 F.C.C. 2d 877 (1970) and *Pinckneyville, Illinois*, 41 R.R. 2d 69 (1977).

14. Jimenez's comments merely state, without elaboration, that Channel 59 at Roswell "would best serve the public interest by bringing new television services to areas having the greatest need." There is no indication of what Roswell's unserved needs are or how the area was determined to be one having the "greatest" need. Further, and more importantly, we have been provided with no information, although requested, that leads us to believe that the substitute channel at Andrews could be activated, if assigned. Channel 59 cannot be assigned at Roswell without its deletion from Andrews, and as stated in the *Further Notice*, the deletion of the educational assignment, without replacement, would not be considered as it would violate Commission policy.[4] Therefore, we believe that the failure of Jimenez to come forth with evidence showing that a noncommercial educational service could be instituted on Channel *24 at Andrews mandates that his request for the assignment at Roswell be denied.

15. The assignment of Channel 63 at Knoxville and Channel 23 at Chattanooga would represent a sixth and fifth local commercial service, respectively, at the expense of providing a first local service to Monroe and Dalton, Georgia. While Knoxville and Chattanooga are clearly the larger communities, neither Dalton nor Monroe are insubstantial ones. Dalton has a population of 20,939 persons and is a county seat. Monroe, with a population of 8,854 persons, is also a county seat.

16. In adopting the Table of Assignments, the Commission set forth priorities governing the assignment of television channels.[5] The provision of at least one local broadcast station to every community was listed as a higher priority than providing multiple services to a community. Neither Towe nor Chattanooga Family present any reasons why Dalton or Monroe should not receive a television allocation. In fact, they give no reason as to why Knoxville or Chattanooga should receive an additional allocation, beyond the mere fact of their community's larger population. Neither party claims that an additional assignment at Knoxville or Chattanooga would provide service to unserved areas. Nor do they present any evidence that a fifth or sixth commercial service at either community would fill a service void of such magnitude as to override the provision of a first local service at two communities.

17. Towe argues that both Knoxville and Monroe can receive a co-channel assignment, even though they are insufficiently far apart, if the Commission recognizes the terrain shielding effects of the Appalachian Mountains which lie between the two communities. Television channels are assigned on a mileage separation basis only. By allocating channels in compliance with strict mileage separations, the Commission is assured that each broadcast station can receive an adequate area of protection for its signal. As stated in the *Sixth Report and Order*, supra, at 178–179:

> The use of this system of station separations, we believe, will more easily and more likely bring about a truly efficient and equitable distribution of television service than would a system based upon "protected contours".

In making this determination, the Commission examined the possibility of assigning channels at less than a minimum mileage separation by use of terrain shielding. The Commission determined that there was insufficient data available to determine the effects of terrain shielding on signal propagation and therefore refused to make any television assignments at less than the required spacings even where communities were separated by mountain ranges. See *Sixth Report and Order, supra*, at 187. This belief has been affirmed as recently as the *Notice of Proposed Rule Making* in the VHF Drop-In proceeding, 45 FR 72902, published November 3, 1980. Based on the evidence before us, we see no reason to deviate from the assignment principles embodied in §§ 73.610–73.612 and therefore will not assign television channels at less than the required minimum mileage separations.

18. Channel 23 can be assigned to Dalton, with a site restriction of 6.1

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cause a short-spacing to Channel 53 at Cleveland, Tennessee, for which there are applications pending. Based on this fact, it reaffirms its interest in the assignment of Channel 23 at Dalton.

[4] See Paragraph 12 and cases cited therein.

[5] *Sixth Report and Order*, Docs. 8736, *et. al.*, 41 F.C.C. 148 (1952).

miles west, without affecting any of the other proposals under consideration herein, if it is not assigned at Chattanooga. Based on our assignment priorities, we believe the public interest would best be served by assigning a first local channel at Dalton before Chattanooga receives its sixth such allocation. Therefore, we shall deny the request of Chattanooga Family to assign Channel 23 to Chattanooga.

19. We would also assign Channel 63 to Monroe, Georgia, as that community's first local service before we would assign Channel 63 to Knoxville, as its seventh such service. Therefore, we will deny the request of Towe for the Knoxville allocation. Unfortunately, the assignment of Channel 63 at Monroe also conflicts with another proposal. Channel 63 cannot be assigned to Monroe if the current Channel *24 assignment at Athens, Tennessee, is substituted with Channel *63 in order to assign Channel *24 to Bowling Green, as requested by Western Kentucky University. As discussed in the forthcoming *Second Further Notice of Proposed Rule Making* in this proceeding, we have proposed a site restriction for Channel *24 at Athens which permits the assignment of Channel *24 at Bowling Green. If the site restriction is adopted, it will also permit the assignment of Channel 63 at Monroe. For this reason we have not included an assignment at Monroe in this document but have included it for consideration in the *Second Further Notice*. However, we would like to point out that should the proponent for Monroe decide that it is no longer interested in pursuing its requested allocation, Towe would be free to seek Commission reevaluation of his request.

20. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective June 13, 1985, the TV Table of Assignments, § 73.606(b) of the Rules, IS AMENDED with respect to the communities listed below, to read as follows:

City	Channel No.
Opelika, AL	50, 66
Dalton, GA	23

21. It is further ordered, That the petition of Richard Towe to assign Channel 63 to Knoxville, Tennessee (RM–4300) is denied.

22. It is further ordered, That the petition of Chattanooga Family Television (RM–4353) is denied.

23. It is further ordered, That the petition of Jess Jimenez (RM–4673) is denied.

24. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 85–12700 Filed 5–24–85; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 83–12; Notice 4]

Lamps, Reflective Devices and Associated Equipment; Correction and Clarification

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final Rule; correction and clarification.

SUMMARY: This notice corrects an error in the amendment published on November 26, 1984 (49 FR 46386) relating to lamps, reflective devices and associated equipment. The error appears in Figure 1b. It is therefore necessary to correct the error. The maximum allowable value for parking lamp candlepower was omitted. Clarifications of Figure 1b are also provided.

FOR FURTHER INFORMATION CONTACT: Ken Rutland, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590, (202) 426–2154.

SUPPLEMENTARY INFORMATION: In the final rule on harmonization amendments published on November 26, 1984 (49 FR 46386), in establishing Figure 1b to provide minimum and maximum candlepower values for certain lamps, the maximum allowable candlepower for parking lamps was inadvertently omitted and must now be reinstated. That value is 250 candela at test points below the horizontal and 125 candela or above horizontal as specified by SAE Standard J222, December 1970, and is incorporated by reference in Standard No. 108. Footnotes clarifying requirements for taillamps and front yellow turn signals are also added.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

§571.108 [Amended]

1. The authority citation for Part 571 continues to read as follows:

Authority. 15 U.S.C. 1392, 1407; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8

2. On page 46390, Figure 1b of 49 CFR 571.108 is revised as follows:

FIGURE 1b.—MINIMUM AND MAXIMUM ALLOWABLE CANDLEPOWER VALUES

Lamp	Lighted sections		
	1	2	3
Stop	80/300	95/360	110/420
Tail [1]	2/18	3.5/20	5.0/25
Parking [2]	4.0/125		
Red turn signal	80/300	95/360	110/420
Yellow turn signal rear	130/750	150/900	175/1050
Yellow turn signal front	200/–	240/–	275/–
Yellow turn signal front [3]	500/–	600/–	685/–

[1] Maximum at H or above.

[2] The maximum candlepower value of 125 applies to all test points at H or above. The maximum allowable candlepower value below H is 250.

[3] Values apply when the optical axis (filament center) of the front-turn signal is at a spacing less than 4 in. (10 cm.) from the lighted edge of the headlamp unit providing the lower beam, or from the lighted edge of any additional lamp installed as original equipment or used in lieu of the lower beam.

The lawyer and the program official principally responsible for this correction are Z. Taylor Vinson and Ken Rutland, respectively.

Issued on May 22, 1985.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 85–12782 Filed 5–24–85; 8:45 am]

BILLING CODE 4910-59-M

Proposed Rules

Federal Register
Vol. 50, No. 102
Tuesday, May 28, 1985

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-NM-43-AD]

Airworthiness Directives; Airbus Industrie Model A300 B2 and B4 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require inspections for cracks and repairs or modifications, as necessary, of the fuselage, wings, and vertical stabilizer structures, of certain Airbus Industrie Model A300 B2 and B4 series airplanes. Cracks have been detected in several areas of the fuselage, wings, and vertical stabilizer structures during fatigue tests conducted by the manufacturer. If these cracks are not detected and repaired, the potential exists for rapid decompression of the aircraft or a structural failure.

DATE: Comments must be received on or before July 19, 1985.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 85-NM-43-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France, or may be examined at the Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Standardization Branch, ANM-113; telephone (206) 431-2979. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report; summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 85-NM-43-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The French Civil Aviation Authority (DGAC) has issued a Consigne de Navigabilité which mandates compliance with ten (10) Aribus Industrie (AI) service bulletins. These service bulletins, which were developed as a result of cracks detected during fatigue testing, prescribe inspections and corrective actions, as necessary, to address the following problems:

A. Cracks in the upper part of the fuselage skin, at frame 58, between stringer 5 left (LH) and stringer 5 right (RH). AI Service Bulletin A300-53-127 prescribes repetitive inspections, and repairs if necessary.

B. Cracks in the circumferential fuselage splice and stringer couplings at frame 72, from stringer 5 to stringer 12 (LH and RH, upper area of fuselage). AI Service Bulletin A300-53-101 prescribes repetitive inspections, and repairs if necessary.

C. Cracks in frame 57A between stringers 15 and 16 (LH and RH) and cracks in the stringer 5 connection angle at frame 65 (LH and RH). AI Service Bulletin A300-53-143 prescribes repetitive inspections, and repairs if necessary.

D. Cracks in the webplate between frame 30A and frame 32 at stringers 18 and 22 (LH and RH). AI Service Bulletin A300-43-182 prescribes repetitive inspections, and repairs if necessary.

E. Cracks in skin from frame 28 to frame 31, between stringers 29 and 31 (LH and RH). AI Service Bulletin A300-53-112 prescribes repetitive inspections and the incorporation of a modification if necessary.

F. Cracks in the longitudinal joint at stringer 51 (LH and RH) between frames 72 and 80. AI Service Bulletin A300-53-100 prescribes repetitive inspections, and repairs if necessary.

G. Bending-induced cracks in the longitudinal joint in the area bounded by frames 72 and 80, left and right hand stringers 1. Also, bending-induced cracks in the longitudinal skin splices between frame 72 and frame 73 at stringer 29 (LH and RH). AI Service Bulletin A300-53-125 prescribes repetitive inspections, and repairs if necessary.

H. Cracks in forward main attachment fittings of the vertical stabilizer. These cracks start from the holes of rivets that attach the skin to the structure. Investigation revealed that the cracks were caused by strees imparted into the fittings during installation of rivets. AI Service Bulletin A300-55-026 prescribes repetitive inspections, and repairs if necessary.

I. Cracks in the landing angle attached to outboard side of the wind leading edge at nose rib 8 (LH and RH). AI Service Bulletin A300-57-109 prescribes repetitive inspections. In case of crack discovery, AI Modification 1307, described in AI Service Bulletin A300-57-026, must be incorporated.

This airplane model is manufactured in France and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since these conditions, which could lead to depressurization or structural failure, are likely to exist or develop on

airplanes of this model registered in the United States, an AD is proposed that would require the actions mentioned above.

The following table lists the number of U.S. registered airplanes that would be affected by this AD and gives an estimate of the manhours per airplane that it would take to accomplish each of the proposed inspections.

Item	Number of airplanes	Manhours/airplane
A	14	7
B	6	62
C	15	13
D	6	5
E	0	1
F	0	47
G	14	16
H	0	10
I	0	70

Some of the problem items affect no currently U.S.-registered airplanes; however, these items are included in the proposed AD to cover future imports. Based on an average labor cost of $40 per manhour and the table above, the total cost impact of this AD to U.S. operators is estimated to be $36,760.

For the reasons discussed above, the FAA has determined that this document: (1) Involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Airbus Industrie Model A300 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administrator proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.85; 49 CFR 1.47.

By adding the following new airworthiness directive:

Airbus Industrie: Applies to Model A300 B2 and B4 series airplanes, serial numbers as listed in each of the following service bulletins, certificated in all categories. To prevent dangerous propagation of cracks in the fuselage, wing and vertical stabilizer structures, accomplish the following, within one year after the effective date of this AD, or upon reaching the threshold (number of landings or flight hours) indicated in each paragraph below, whichever is the later, unles already accomplished.

A. For airplanes with serial numbers listed in Airbus Industrie (AI) Service Bulletin A300-53-127, Revision 4, dated May 10, 1984, prior to the accumulation of 18,000 landings or 18,000 flight hours, whichever occurs first, visually inspect the upper fuselage skin at frame 58, between stringer 5 left and stringer 5 right, in accordance with the accomplishment instructions of the service bulletin, and thereafter repeat this inspection at intervals not to exceed 3,000 flight hours. Repair cracks in accordance with figure 2, Inspection and Repair Alternative Chart, of the service bulletin. Incorporation of AI Modification 2147, described in AI Service Bulletin A300-53-110, terminates the inspection requirements of this paragraph.

B. For airplane with serial numbers listed in AI Service Bulletin A300-53-101, Revision 7, dated May 10, 1984, perform a radiographic and ultrasonic inspection in accordance with the accomplishment instructions of the service bulletin which thresholds as follows:

(1) If the requirements of AI Service Bulletin A300-53-053 have been accomplished, the initial inspection is not required until the accumulation of 20,000 landings after this work was completed, and thereafter repeat this inspection at intervals not to exceed 3,000 landings.

(2) If the requirements of AI Service Bulletin A300-53-053 have not been accomplished, the initial inspection must be done prior to the total accumulation of 18,000 landings, and thereafter repeat this inspection at intervals not to exceed 3,000 landings.

Repair cracks in accordance with Figures 1 or 2 of the service bulletin. Incorporation of AI Modification 3780, described in AI Service Bulletin A300-53-170, constitutes terminating action for the requirements of this paragraph.

C. For airplanes with serial numbers listed in AI Service Bulletin A300-53-143, Revision 3, dated May 10, 1984, prior to the accumulation of 20,000 landings or 20,000 flight hours, whichever occurs first, visually inspect for cracks frame 57A between stringers 15 and 16 (LH and RH), and the stringer 5 connection angle at frame 65, LH and RH, in accordance with the accomplishment instructions of the service bulletin, and thereafter repeat this inspection at intervals not to exceed 3,000 landings. Repair cracks in accordance with the service bulletin instructions. Incorporation of AI Modification 2643, described in AI Service Bulletin A300-53-132, constitutes terminating action for the requirements of this paragraph.

D. For airplanes with serial numbers listed in AI Service Bulletin A300-53-182, dated February 7, 1983, prior to the accumulation of 30,000 landings, inspect for cracks in the webplate between frame 30A and frame 32 at stringer 18 and 22 (LH and RH), in accordance with the accomplishment instruction of the service bulletin. Repeat this inspection at intervals not to exceed 3,000 landings until the airplane has accumulated a total of 36,000 landings, and thereafter repeat the inspections at intervals not to exceed 2,000 landings. Repair cracks in accordance with the Service bulletin instruction. Incorporation of AI Modification 1691, described in AI Service Bulletin A300-53-083, constitutes terminating action for the requirements of this paragraph.

E. For airplanes with serial numbers listed in AI Service Bulletin A300-53-112, Revision 2, dated July 20, 1981 prior to the accumulation of 24,000 landings, visually inspect the skin for cracks from frame 28 to frame 31, between stringers 29 and 31 (LH and RH) in accordance with the accomplishment instructions of the service bulletin, and thereafter repeat this inspection at intervals not to exceed 3,000 landings. If cracks are found at any inspection, AI modification 1358, described in AI Service Bulletin A300-53-027, must be incorporated before further flight. Incorporation of AI Modification 1358 constitutes terminating action for the inspection requirements of this paragraph.

F. For airplanes with serial numbers listed in AI Service Bulletin A300-53-100, Revision 1, dated May 10, 1984, prior to the accumulation of 12,000 landings or 15,000 flight hours, whichever occurs first, visually inspect internally and externally for cracks, the longitudinal joint at stringer 51 (LH and RH) between frames 72 and 80, in accordance with the accomplishment instructions of the service bulletin. Thereafter repeat the internal inspection at intervals not to exceed 1,500 flight hours, and the external inspection at intervals not to exceed 12,000 flight hours. Repair cracks before further flight in accordance with the service bulletin instructions. Incorporation of AI Modification 1421, described in AI Service Bulletin A300-53-033, constitutes terminating action for the requirements of this paragraph.

G. For airplanes with serial numbers listed in AI Service Bulletin A300-53-125, dated July 15, 1983, prior to the accumulation of 20,000 landings, inspect for cracks as follows:

(1) Using ultrasonic methods, inspect the longitudinal lap joints at stringer 29 (LH and RH), between frames 72 and 73, in accordance with the accomplishment instruction of the service bulletin, and thereafter repeat this inspection at intervals not to exceed 2,000 landings; and

(2) Using an eddy current method, inspect the longitudinal skin splices of the top fuselage joint, between frame 72 and frame 80 in accordance with the accomplishment instructions of the service bulletin, and thereafter repeat this inspection at intervals not to exceed 3,000 landings.

Repair cracks in accordance with the service bulletin instructions. Incorporation of AI Modification 2525, described in AI Service Bulletin A300-53-126, constitutes terminating action for the requirements of this paragraph.

H. For airplanes with serial numbers listed in AI Service Bulletin A300-55-026, Revision

3, dated May 10, 1984, prior to the accumulation of 20,000 landings or 20,000 flight hours, whichever occurs first, visually inspect the six (6) vertical stabilizer attachment fittings for cracks, which initiate from the rivet holes, in accordance with the accomplishment instructions of the service bulletin, and thereafter repeat this inspection at intervals not to exceed 1,500 landings. Repair cracks in accordance with the service bulletin instruction. Incorporation of AI Modification 3172, described in AI Service Bulletin A300-55-024, constitutes terminating action for the requirements of this paragraph.

I. For airplanes with serial numbers listed in AI Service Bulletin A300-57-109, Revision 1, dated July 10, 1982, prior to the accumulation of 15,000 landings, visually inspect for cracks in the landing angle attached to the outboard side of the wing leading edge at nose rib 8 (LH and RH) in accordance with the accomplishment instructions of the service bulletin, and thereafter report this inspection at intervals not to exceed 3,000 landings. In case of crack discovery, incorporate AI Modification 1307, described in AI Service Bulletin A300-57-026, Revision 3, dated October 21, 1982, within the next 1,000 landings. Incorporation of AI Modification 1307 constitutes terminating action for the requirements of this paragraph.

J. Upon request of an operator, an FAA Maintenance Inspector, subject to prior approval of the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, may adjust the inspection times specified in this AD to permit compliance at an established inspection period of that operator, if the request contains substantiating data to justify the change for that operator.

K. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA Northwest Mountain Region.

L. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the inspection and/or modifications required by this AD.

All persons affected by this proposal who have not already received these documents from the manufacturer may obtain copies upon request to Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on May 20, 1985.

Charles R. Foster,

Director, Northwest Mountain Region

[FR Doc. 85-12658 Filed 5-24-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 85-NM-45-AD]

Airworthiness Directives; McDonnell Douglas Model DC-9-10, -20, -30, -40, -50, -40, and C-9 (Military) Series Airplanes (Fuselage Numbers 1 through 1157)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NRPM).

SUMMARY: This notice proposes to add a new airworthiness directive (AD) that would supersede an existing airworthiness directive (AD) which requires the inspection of the left and right hand window belt panels and adjacent structures for cracks on certain McDonnell Douglas DC-9-10, -20, -30, -40, -50, and C-9 (Military) series airplanes. This amendment would require that the applicability of window belt panel inspections be expanded to include the DC-9-80 series airplanes, and provide terminating action for repetitive inspections. In addition, the proposed AD would delete the reporting requirements of paragraph (1) imposed by AD 80-09-07.

DATE: Comments must be received no later than July 19, 1985.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 85-NM-45-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). This information also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Michael N. Asahara, Sr., Aerospace Engineer, Airframe Branch, ANM-122L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 548-2826.

SUPPLEMENTARY INFORMATION:

Coment Invited

Interested persons are invited to particiapte in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 85-NM-45-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

On April 29, 1980, the FAA issued Airworthines Directive 80-09-07, effective May 12, 1980, Amendment 39-3767 (45 FR 30421), which required inspection and repair, as necessary, of the fuselage window belt panels. This AD was prompted by reports of cracks which could lead to rapid depressurization and result in severe structural damage to the airplane.

This Notice would extend the requirements of AD 80-09-07 to include the DC-9-80 series airplanes (as noted on McDonnell Douglas Alert Service Bulletin A53-142) and would provide for terminating action for repetitive inspections imposed by AD 80-09-07. Since the issauance of AD 80-09-07, FAA has ascertained that the same condition(s) which existed for the DC-9 basic series aircraft is applicable to the DC-9-81 and DC-9-82 aircraft. Accomplishment of the inspections and crack repair/replacement as outlined in McDonnell Douglas DC-9 Service Sketch 3044E, dated March 17, 1980, will assure the structural integrity of the window belt panels and minimize the potential of extensive structural damage.

Since this situation is likely to exist or develop on other airplanes of the same type design, the AD is being proposed to require repetitive non-destructive inspection of the window belt panels.

Approximately 185 airplanes of U.S. registry would be affected by the

proposed AD. It would require approximately 34 manhours per airplane to accomplish the required preventive modification, and 21 manhours per airplane to accomplish the required repetitive inspections. The average labor charge is $40 per manhour. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $407,000.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291, and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Model DC-9 and C-9 (Military) series airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket. A copy may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

List of Subjects in 44 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by superseding Amendment 39-3767 (47 FR 30421), AD 80-09-07, effective May 12, 1980, with the following new airworthiness directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC-9, -10, -20, -30, -40, -50, -80 and C-9 (Military) series airplanes (Fuselage Numbers 1 through 1157), certificated in all categories. Compliance required as indicated, unless previously accomplished within the past 4,000 landings.

To prevent crack propagation which could result in rapid cabin depressurization, accomplish the following:

A. On airplanes with 30,000 or more landings on or after the effective date of this AD, within 1,000 additional landings inspect the left and right hand window belt panels and adjacent structures for cracks using eddy current methods, in accordance with McDonnell Douglas Alert Service Bulletin (ASB) A53-142), Revision 6, dated January 28, 1985 (hereinafter referred to as ASB 53-142), or later FAA approved revisions.

B. Repeat the inspections required by paragraph A. of this AD at intervals not to exceed 4,000 landings since the last such inspection, until such time as preventive modification is installed in accordance with McDonnell Douglas Service Bulletin 53-142, dated June 30, 1983, or later FAA approved revisions.

C. Credit may be given for inspections and repairs already accomplished by virtue of the original AD in accordance with earlier versions of the Alert Service Bulletin A53-142.

D. If any fuselage skin cracks are found, accomplish D.1., D.2., or D.3., below, before further flight:

1. Repair fuselage skin cracks in accordance with Option 2 described in ASB 53-142; or

2. Repair fuselage skin cracks in accordance with McDonnell Douglas DC-9 Drawing J060131. Repairs of fuselage skin cracks accomplished in accordance with Drawing J060131 must be visually inspected at intervals not to exceed 2,000 landings, and must be replaced by repairs accomplished in accordance with McDonnell Douglas Drawing J060109 within 4,000 landings. After accomplishment of repairs in accordance with Drawing J060109, reinspect the airplane in accordance with the requirements of paragraph B. of this AD; or

3. Install a placard in plain view of the pilot reading "Pressurized Flight Prohibited," and accomplish paragraph D.1. or D.2., above, within 4,000 landings.

F. Accomplishment of the preventive modifications in accordance with McDonnell Douglas DC-9 Service Bulletin 53-142 will constitute terminating action for the special inspection requirements listed in McDonnell Douglas Report MDC-J8855, Part I, Revision A through G, or later FAA approved revisions.

G. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes unpressurized to a base to comply with the requirements of this AD.

H. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

I. Upon request of operator, an FAA Maintenance Inspector, subject to prior approval of the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region, may adjust the repetitive inspection intervals specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

All persons affected by this proposal who have not already received these documents from the manufacturer may obtain copies upon request to the McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

(Secs. 313(a), 314(a), 601 and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.85)

Issued in Seattle, Washington, on May 20, 1985.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 85-12659 Filed 5-24-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 85-ASO-12]

Proposed Alteration of Control Zone, Roosevelt Roads, Puerto Rico

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Roosevelt Roads, Puerto Rico, control zone to accommodate a change in an instrument approach procedure. The Roosevelt Roads ultra high frequency radio beacon (UHF/RBN), which is located approximately 1.5 miles southeast of the runway, is being relocated to a new site much closer to the runway. The relocation necessitates a change in the instrument approach procedure which, in turn, requires realignment of the control zone arrival extension.

DATE: Comments must be received on or before: July 7, 1985.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Manager, Airspace and Procedures Branch, ASO-530, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763-7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Supervisor, Airspace Section, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal.

Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. ———." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace and Procedures Branch (ASO-530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the applications procedure.

The Proposal

The FAA is considering an amendment to §71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) which will alter the Roosevelt Roads, Puerto Rico, control zone by realigning the existing arrival extention ten degrees to accommodate a revised instrument approach procedure. Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in FAA Order 7400.6A dated January 2, 1985.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Control zone.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) proposes to amend Part 71 of the FAR (14 CFR Part 71) as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); [14 CFR 11.65]; 49 CFR 1.47.

2. By amending § 71.171 as follows:

Roosevelt Roads, PR—[Revised]

Within a 5-mile radius of NS Roosevelt Roads (lat. 18°15'05"N., long. 65°38'35"W.); within 3 miles each side of the 042° bearing from Roosevelt Roads UHF/RBN, extending from the 5-mile radius zone to 8.5 miles northeast of the RBM.

Issued in East Point, Georgia, on May 15, 1985.

W. J. McGill,

Acting Director, Southern Region.

[FR Doc. 85-12780 Filed 5-24-85; 8:45 am]

BILLING CODE 4910-13-M

VETERANS ADMINISTRATION

38 CFR Part 21

Veterans Education; Retroactive Approval of Courses

AGENCY: Veterans Administration.

ACTION: Proposed regulation.

SUMMARY: State approving agencies sometimes approve courses for VA training retroactively. This proposed regulation amendment states how the VA will determine the commencing date of an award of educational assistance paid to veterans enrolled in a newly approved course which has been approved retroactively.

DATE: Comments must be received on or before June 21, 1985.

ADDRESS: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420. All written comments received will be available for public inspection only in the Veterans Services Unit, room 132 of the above address between the hours of 8 a.m. to 4:30 p.m., Monday through Friday (except holidays) until July 8, 1985.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, (202) 389-2092.

SUPPLEMENTARY INFORMATION: 38 U.S.C. 1772 (a) authorizes receipt of benefits by eligible persons and veterans for approved courses. 38 CFR 21.4131 (a)(3) has been amended and 38 CFR 21.4132 has been removed in order to provide rules for paying educational assistance allowance when courses are approved retroactively.

The Administrator has determined that this proposal does not contain a major rule as that term is defined by Executive Order 12291 on Federal Regulations. The proposal will not cause a major increase in costs or prices for anyone. Its annual effect on the economy will be less than $100 million. It will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator has certified that promulgation of these regulations, if made final, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA). Under 5 U.S.C. 605(b) these regulations, therefore, are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because this change will only affect payments made to individual benefit recipients. The regulation will have no significant impact on small entities, i.e., small businesses, small private and nonprofit organizations, and small governmental jurisdictions.

The Catlog of Federal Domestic Assistance number for the program affected by this regulation is 64.111.

List of Subjects is 38 CFR Part 21

Civil rights, Claims, Education, Grant programs-education, Loan programs-education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: May 1, 1985.

By direction of the Administrator.
Everett Alvarez, Jr.,
Deputy Administrator.

PART 21—[AMENDED]

38 CFR Part 21, Vocational Rehabilitation and Education is amended as follows:

1. Section 21.4131 (a)(3) is revised to read as follows:

§ 21.4131 Commencing dates.

* * * * *

(a) Entrance or reentrance including change of program or school. (§ 21.4234).

* * * * *

(3) The later of the following:

(i) The effective date of the approval of the course, or

(ii) One year before the date the VA receives the approval notice.

(38 U.S.C. 1772 (a))

* * * * *

§ 21.4132 [Reserved]

2. Section 21.4132 is removed and reserved.

[FR Doc. 85-12717 Filed 5-24-85; 8:45 am]
BILLING CODE 8320-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 902

Permanent State Regulatory Program of Alaska

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is seeking comment on Alaska's request to further extend the deadline for Alaska: (1) To promulgate rules governing the training, examination and certification of blasters and (2) to develop and adopt a program to examine and certify all persons who are directly responsible for the use of explosives in a surface coal mining operation. On February 29, 1984, Alaska requested a 12 month extension of time for the development of a blaster certification program. On May 14, 1984, the Director, OSM announced his decision to extend Alaska's deadline to May 2, 1985 (49 FR 20284). On April 29, 1985, Alaska requested an additional extension until August 2, 1985, to submit a blaster training program.

All States with regulatory programs approved under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act) are required to develop and adopt a blaster certification program by March 4, 1984. Section 850.12(b) of OSM's regulations provides that the Director, OSM may approve an extension of time for a State to develop and adopt a program upon a demonstration of good cause.

DATE: Comments not received by June 27, 1985, at the address below, will not necessarily be considered.

ADDRESSES: Written comments should be mailed or hand delivered to Mr. William Thomas, Field Office Director, Casper Field Office, Office of Surface Mining, Freden Building, 935 Pendell Boulevard, Mills, Wyoming 82644.

FOR FURTHER INFORMATION CONTACT: Mr. William Thomas, Field Office Director, Casper Field Office, Office of Surface Mining, Freden Building, 935 Pendell Boulevard, Mills, Wyoming 82644; Telephone: (307) 328-5830.

Supplementary Information

On March 4, 1983, OSM issued final rules effective April 14, 1983, establishing the Federal standards for the training and certification of blasters at 30 CFR Ch. M (48 FR 9486). Section 850.12 of these regulations stipulates that the regulatory authority in each State with an approved program under SMCRA shall develop and adopt a program to examine and certify all persons who are directly responsible for the use of explosives in a surface coal mining operation within 12 months after approval of a State program or within 12 months after publication date of OSM's rule at 30 CFR Part 850, whichever is later. In the case of Alaska's program, the applicable date is 12 months after the approval of the State program, or May 2, 1984.

On February 29, 1984, the State of Alaska submitted to OSM a request for a 12 month extension to submit final rules addressing the blaster certification program. On May 14, 1984, OSM granted Alaska an extension to May 2, 1985 (49 FR 20284). On April 29, 1985, the State advised OSM that it had developed draft regulations, identified training options, prepared two blaster certification examinations, and drafted an application form. However, the State indicated that additional time is needed to review the program materials and to refine the identification of available training options. Thus, the State is requesting an extension of the deadline for submission until August 2, 1985.

Therefore, OSM is seeking comment on the State's request for additional time to develop and adopt a blaster certification program. Section 850.12(b) of OSM's regulations provides that the Director, OSM, may approve an extension of time for a State to develop and adopt a program upon a demonstration of good cause.

Additional Determinations

1. Compliance with the National Environmental Policy Act

The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. Executive Order No. 12291 and the Regulatory Flexibility Act

On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules would be met by the State.

3. Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 902

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: May 21, 1985.
Jed D. Christensen,
Director, Office of Surface Mining.
[FR Doc. 85-12727 Filed 5-24-85; 8:45 am]
BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD3 85-19]

Regatta; New Jersey Offshore Grand Prix

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rule making.

SUMMARY: The Coast Guard is considering a proposal to establish Special Local Regulations for the annual

New Jersey Offshore Grand Prix Regatta being sponsored by the New Jersey Offshore Powerboat Racing Association. The purpose of this regulation is to provide for the safety of participants and spectators on navigable waters during the event.

DATE: Comments must be received on or before June 27, 1985.

ADDRESSES: Comments should be mailed to Commander (b), Third Coast Guard District, Governors Island, New York, NY 10004. The comments will be available for inspection and copying at the Boating Safety Office, Building 110, Governors Island, New York, NY. Normal office hours are between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: LT. D.R. Cilley, (212) 668–7974.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD3 85–19) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped, self-addressed postcard or envelope is enclosed. The rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process. The comment period for this proposed rulemaking is less than the normal 45 days because of the time constraints involved. Due to the shortened comment period, verbal comments submitted by telephone are acceptable.

Drafting Information

The drafters of this notice are Lt. D.R. Cilley, Project Officer, Third Coast Guard District Boating Safety Division and Ms. MaryAnn Arisman, Project Attorney, Third Coast Guard District Legal Office.

Discussion of Proposed Regulations

The annual New Jersey Offshore Grand Prix is a powerboat race held off the New Jersey coastline between Asbury Park and Seaside Park. This event is sponsored by the New Jersey Offshore Powerboat Racing Association and is well known to the boaters and residents of this area. This event is traditionally held each year on the third Wednesday in July. Because of the annual nature of this event the Coast Guard proposes to promulgate a permanent amendment to Part 100 of Title 33, Code of Federal Regulations and thereafter provide the public with full and adequate notice of this annual powerboat race by publication in the Third District Local Notice to Mariners. The event is sanctioned by the American Powerboat Assocation and the Union of International Motorboating. Approximately 80 powerboats ranging from 18–45 feet in length will race in various classes at distances from 60 to 156 nautical miles. Race headquarters will be located at Jenkinson's Pavilion, in Point Pleasant. Race participants will exit Manasquan Inlet between 9:00–9:30 a.m. on race day escorted by race committee patrol vessels. An extensive Regatta Patrol under the control of the Coast Guard Patrol Commander will supervise this event in conjunction with vessels provided by the race sponsor and other local government agencies. A Safety Voice Broadcast will be issued by the Coast Guard to properly notify boaters of this event and the regulations issued for its control. In order to provide for the safety of life and property, the Coast Guard will regulate the movement of vessels and establish anchorages for spectator vessels prior to and during this event.

Economic Assessment and Certification

This proposed regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 CFR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. This event will draw a large number of spectator craft into the area for the duration of the race. This should have a favorable impact on commercial facilities providing services to the spectators. This area is used primarily by recreational boaters; any impact on commercial traffic in the area will be negligible.

Since the impact of this regulation is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water).

Proposed Regulation

In consideration of the foregoing, the Coast Guard proposes to amend Part 100 of Title 33, Code of Federal Regulations as follows:

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. Part 100 is amended by adding § 100.306 to read as follows:

§ 100.306 New Jersey Offshore Grand Prix.

(a) *Regulated Area:* The Manasquan River from the New York and Long Branch Railroad to Manasquan Inlet, together with all of the navigable waters of the United States from Asbury Park, New Jersey, latitude 40 degrees, 14 minutes north; southward to Seaside Park, New Jersey latitude 39 degrees, 55 minutes north, from the New Jersey shoreline seaward to the limits of the Territorial Sea. The race course area extends from Asbury Park to Seaside Park from the shoreline, seaward to a distance of 8.4 nautical miles.

(b) *Effective Period:* This regulation will be effective from 8:00 a.m. to 5:00 p.m. on July 17, 1985 and thereafter annually on the third Wednesday in July unless otherwise specified in the Third District Local Notice to Mariners and in a **Federal Register** Notice. The approved rain dates for the 1985 event are July 18 or 19, 1985.

(c) *Special Local Regulations:*

(1) The regulated area shall be closed intermittently to general navigation during the effective period. No person or vessel may enter or remain in the regulated area while it is closed unless participating in the event or authorized by the sponsor or regatta patrol personnel.

(2) All persons or vessels not registered with sponsor as participants or not part of the regatta patrol are considered spectators.

(3) The spectator fleet shall be held in spectator anchorage areas marked by patrol vessels. The sponsor provided boats shall fly colored pennants to aid in their identification. Spectator anchorages areas are established as follows:

(i) *Absury Park, NJ south to Manasquan Inlet, NJ.* The spectator fleet will be held behind (west of) a line running north to south from the Asbury Park Convention Center to the north jetty at Manasquan Inlet. At the Asbury Park Convention Center the spectator fleet shall be held behind a line north of the Convention Center Pier. These lines

will be set up by the Coast Guard Patrol Commander on the day of the race.

(ii) *Seaside Heights.* The spectator fleet shall be held behind a line south of the Seaside Funtown Pier. This line shall be set by the Coast Guard Patrol Commander on the day of the race.

(4) No spectator, press or commercial fishing boats shall cross the race course without the permission of the Partol Commander. Those vessels wishing to cross the race course shall obtain permission to do so by contacting the nearest Coast Guard patrol vessel.

(5) No vessel shall proceed at a speed greater than six (6) knots while in Manasquan Inlet during the effective period.

(6) All persons and vessels shall comply with the instructions of U.S. Coast Guard patrol personnel. Upon hearing five or more blasts from a U.S. Coast Guard vessel, the operator of a vessel shall stop immediately and proceed as directed. U.S. Coast Guard patrol personnel include commissioned, warrant and petty officers of the Coast Guard. Members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation and other applicable laws.

(7) For any violation of this regulation, the following maximum penalties are authorized by law:

(i) $500 for any person in charge of the navigation of a vessel.

(ii) $500 for the owner of a vessel actually on board.

(iii) $250 for any other person.

(iv) Suspension or revocation of a license for a licensed officer.

Dated: May 16, 1985.

P.A. Yost,

Vice Admiral, U.S. Coast Guard, Commander, Third Coast Guard District.

[FR Doc. 85-12735 5-24-85; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 117

[CGD3 84-16]

Drawbridge Operation Regulations; Niantic River, CT

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of Connecticut Department of Transportation (DOD), the Coast Guard is considering a change to the regulations governing the Route 156 Bridge over the Niantic River between East Lyme and Waterford, CT. The change would: (1) Permit a 10 minute delay after an opening for a vessel before another opening would be required, and (2) require four hours notice from November 1 through April 30 from 7 p.m. to 5 a.m. This proposal is being made because of minimal openings during the proposed four hour notice period, and to reduce vehicular congestion in the vicinity of the bridge. This action should relieve the bridge owner of the burden of having a person constantly available to open the draw, accommodate the needs of vehicular traffic, and should still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before July 12, 1985.

ADDRESSES: Comments should be mailed to Commander (oan-br), Third Coast Guard District, Bldg. 135A, Governors Island, NY 10004. The comments and other materials referenced in this notice will be available for inpection and copying at this address. Normal office hours are between 8 a.m. and 4:30 p.m., Monday through Friday, except holdiays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator, Third Coast Guard District, (212) 668-7994.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrence with or for any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Third Coast Guard District will evaluate all communications received and will determine a final course of action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information

The drafters of this notice are Ernest J. Feemster, project manager, and Mary Ann Arisman, project attorney.

Discussion of Proposed Regulations

The Route 156 Bridge spans an approximate 40 yard wide constricted water passage between Niantic Bay (off Long Island Sound) and a large sheltered cover and inner harbor leading to the Niantic River. The bridge has a 65-foot horizontal clearance, and a 9-foot vertical clearance at Mean High Water in the closed position. The narrow, curving entrance to the inner harbor extends from just north of the Route 156 bridge (mile 0.1), southward approximately 250 yards to just south of a railroad bridge (mile 0.0). Currents between the bridges are tricky and run to four knots because of this constriction.

Two charter boat companies and one marina lie between the two bridges. One charter boat company, seven marinas or boat berthing facilities, and several small independent charter boats are north of the Route 156 Bridge. There is one large boat yard above the bridge which berths many large sailboats; however most of the other facilities berth only power vessels. Additionally, there are numerous sailboats which moor to mooring buoys in the inner harbor and many vessels (sail and power) which berth at properties along the shoreline of the inner harbor.

The roadway across the Route 156 bridge has two lanes and extends across a barrier strip of land from East Lyme to Waterford. Except for morning and evening rush hour traffic going to and from the Millstone Nuclear Power plants, vehicular traffic across the bridge is sporadic. Both vehicular and marine traffic peak in the summer boating season, especially in July and August.

Connecticut DOT has requested that regulations at the Route 156 bridge be amended to: (1) Allow a 10 minutes delay after a vessel has transited the draw before opening for another vessel, and (2) require four hour notice from November 1 through April 30 from 7 p.m. to 5 p.m. The former is to allow waiting vehicular traffic to clear prior to another opening of the bridge. Based upon a meeting with Connecticut Assemblyman Mark N. Powers (37th District), Assemblywoman Janet Polinsky (38th District), Connecticut DOT and the Coast Guard on May 30, 1984, the Coast Guard issued temporary regulations from July 6 through September 3, 1984 to evaluate the effectiveness of a 10 minute delay after an opening. This provision appeared to improve traffic flow without creating any major marine problems. The Coast Guard received no public comments in response to the temporary regulations, and Connecticut DOT and local assembly persons reported generally favorable results. To further evaluate this portion of the proposed regulations, the Coast Guard is again issuing a temporary regulation at an earlier point in the summer season—May 30 through July 30, 1985. The temporary regulation appears in the Rules section of this issue of the **Federal Register.**

Connecticut DOT requested four hours notice at night and in the early morning during the non-boating season to relieve them of having to man the bridge during periods of infrequent openings. Connecticut DOT reports that from November 1 through April 30 during the hours of 7 p.m. to 5 a.m., the draw opened 43 times in 1982–83 and 30 times in 1983–84. This they contend does not warrant maintaining a draw operator at the bridge.

A requirement for the draw to open at all times as soon as possible for a public vessel of the United States, and for a vessel in distress is being added in the interest of safety.

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation, and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. The proposed ten minute delay in openings will only be utilized when necessary to clear traffic. The four hour notice from 7 p.m. to 5 a.m. during non-boating season should have little impact because few vessels use the waterway during those times. Many commercial vessels use the waterway but most of these are commercial fishermen or chartered party boats whose use is generally confined to the summer boating season or daylight hours in winter. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations as follows:

PART 117—DRAWBRIDGE OPERATIONS REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

2. Section 117.215(b) is revised to read as follows:

§ 117.215 Niantic River.

* * * * *

(b) The draw of the S156 bridge, mile 0.1 at Niantic, shall open on signal except:

(1) From 7 a.m. to 8 a.m., and from 4 p.m. to 5 p.m. Monday through Friday except holidays, the draw shall open only for passage of commercial vessels.

(2) From November 1 through April 30 from 7 p.m. to 5 a.m., the draw shall open upon four hours notice.

(3) The draw may delay opening for a period of up to 10 minutes after closure of the bridge following an opening for a vessel, to allow vehicular traffic to cross the bridge.

(4) The draw shall open at all times as soon as possible for a public vessel of the United States or a vessel in distress.

Dated: May 10, 1985.

P.A. Yost,

Vice Admiral, U.S. Coast Guard, Commander, Third Coast Guard District.

[FR Doc. 85–12734 Filed 5–24–85; 8:45 am]

BILLING CODE 4910–14–M

POSTAL RATE COMMISSION

39 CFR Part 3001

[Docket No. RM85–1]

Publication of Domestic Mail Classification Schedule

May 20, 1985.

AGENCY: Postal Rate Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposal is intended to make the Domestic Mail Classification Schedule (DMCS), the basic framework of regulations for domestic mail services provided by the Postal Service, more readily available to interested persons. A new provision, 39 CFR 3001.68 and an Appendix A to Subpart C of Part 3001—Rules of Practice and Procedure, 39 CFR, would be added.

DATE: Comments on the proposed amendment set forth in this notice should be filed June 27, 1985.

ADDRESS: Comments and correspondence relating to this notice should be sent to Charles L. Clapp, Secretary of the Commission, 1333 H Street, NW., Washington, D.C. 20268 (telephone: 202/789–6840). The text of the DMCS is also available at this address.

FOR FURTHER INFORMATION CONTACT: David F. Stover, General Counsel, 1333 H Street, NW., Washington, D.C. 20268 (telephone: 202/789–6840).

SUPPLEMENTARY INFORMATION: It is the Commission's goal that the DMCS clearly indicate to postal patrons, the Postal Service and the general public what their respective rights and duties are. One purpose of the DMCS is to provide a means for distinguishing among the various groupings of postal services. The Commission seeks to develop sound, workable definitions that identify the principal intrinsic characteristics of each service and that identify those features which distinguish one service from another. *See also* 39 CFR 3001.5(p).

The purpose of publishing the DMCS is to make it readily available to all interested persons. The Commission believes such ready accessibility should benefit the Postal Service and its customers by reducing uncertainty and difficulty in locating relevant provisions. Ready access to all interested persons may aid the Commission in carrying out its duties with regard to the establishment and maintenance of a fair and equitable clasification system. We note that prior to Postal Reorganization the classification schedule was published as part of Title 39 of the U.S. Code, and therefore, was readily available to all interested persons.

The Postal Rate Commission proposes to add a provision (designated § 3001.68) to its Rules of Practice and Procedure, 39 CFR 3001. *et seq.*, which provides for the publication of the Domestic Mail Classification Schedule in the **Federal Register** and subsequently in the *Code of Federal Regulations* as Appendix A to the Commission Rules applicable to requests for changes in the classification schedule. 39 CFR 3001.61 *et seq.* The version of the DMCS to be published in Appendix A does not alter existing provisions; it merely brings all of them together in one place for ease of reference. The sources are the complete DMCS issued at the completion of Docket No. MC76–5, and subsequent Commission opinions and Postal Service Governors decisions on classification issues.

The text of the DMCS to be published as Appendix One is available at the Commission offices, 1333 H Street, NW., Washington, D.C. 20268. The staff of the Postal Rate Commission has added a few explanatory footnotes or "editor's notes" in places where clarification is appropriate. These footnotes are not part of the DMCS; they serve merely to aid the user in understanding the official text of the DMCS. In view of the informational character of this document, the Commission proposes to publish the pertinent text of the rate schedules without the actual rates. We propose this approach because the rate schedules are already readily available to all interested persons. Additionally, we are concerned that confusion might

arise if there were a time lag between rate changes and publication in the Federal Register. Publishing the rate schedules without the rates will emphasize that rates may be changed without modifications in the DMCS, unless appropriate.

The Commission intends to keep the DMCS updated by publishing subsequent changes in the Federal Register. These changes will follow a hearing on the record under sections 556 and 557 of Title 5. Therefore, the Commission intends to publish future changes as final rules, since procedural safeguards and an ample opportunity to have different viewpoints considered will have already been afforded all interested persons.

Impact of Proposed Changes

Pursuant to Executive Order 12291, the Commission finds that the proposed rule change does not constitute a "major rule." The proposed rule would not change any regulation now governing the provision of domestic mail services. It merely provides a means of ready access to existing regulations. The rule will not have an annual effect on the economy of $100 million or more. Nor will it cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions. Additionally, the rule will have no measurable effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The above analysis that the proposed rule changes do not constitute a major rule for purposes of E.O. 12291, applies with equal force to the Regulatory Flexibility Act.

List of Subjects in 39 CFR Part 3001

Administrative practice and procedure, Postal Service.

PART 3001—RULES OF PRACTICE AND PROCEDURE

Subpart C—Rules Applicable to Requests for Establishing or Changing the Mail Classification Schedule

List of Proposed Changes

1. The authority citation for 39 CFR Part 3001 continues to read as follows:

Authority: 39 U.S.C. 3603, 3622, 3623, 84 Stat. 759–761; (5 U.S.C. 553), 80 Stat. 383, unless otherwise noted.

2. New § 3001.68 is proposed to be added as follows:

§ 3001.68 Text of the Domestic Mail Classification Schedule.

The Domestic Mail Classification Schedule established in accordance with Subchapter II of chapter 36 of title 39 of the United States Code appears (with blank rate schedules) as Appendix A to this subpart.

3. The text of the Domestic Mail Classification Schedule is proposed to be added as Appendix A to Subpart C—Rules Applicable to Requests for Establishing or Changing the Mail Classification Schedule, 39 CFR 3001.61 *et seq.*

By the Commission.

Charles L. Clapp,

Secretary.

[FR Doc. 85–12519 Filed 5–24–85; 8:45 am]

BILLING CODE 7715-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51, 52 and 81

[AD–FRL–2841–6]

Regulations for Implementing Revised Particulate Matter Standards; Comment Period Extension

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of comment period extension.

SUMMARY: This notice extends the public comment period for proposed regulations for implementing revised particulate matter standards, now scheduled to close on June 3, 1985. The extended comment period will end on July 3, 1985. This extension applies *only* to submission of public comments on the regulations, policy, and guideline documents proposed in the Federal Register on April 2, 1985 (50 FR 13130).

DATE: All comments must be submitted on or before July 3, 1985.

ADDRESSES: Comments should be submitted (in triplicate if possible) to: Central Docket Section (LE–131), EPA, Attention: Docket Number A–82–38, 401 M Street, SW., Washington, D.C. 20460. Background information for the April 2, 1985, proposal is located in Docket A–82–38, West Tower Lobby Gallery, EPA, 401 M Street, SW., Washington, D.C. 20460. The docket may be examined between 8:00 a.m. and 4:00 p.m. on weekdays. A reasonable fee may be charged for photocopying.

SUPPLEMENTARY INFORMATION: On April 2, 1985 (50 FR 13130), EPA proposed regulatory revisions to 40 CFR Parts 51, 52, and 81, and policy and guidance for developing State implementation plans for revised particulate matter national ambient air quality standards (NAAQS) which were proposed on March 20, 1984 (49 FR 10435). Subsequent to the April 2, 1985, proposal, EPA has received requests for extension of the 60-day public comment period on that proposal which is scheduled to close on June 3, 1985. Accordingly, the comment period is hereby extended by an additional 30 days. Comments may be submitted in writing no later than 4:00 p.m. on July 3, 1985, to the Central Docket Section, Docket Number A–82–38, at the address previously noted.

This extension pertains only to submission of comments on the April 2 1985, proposed revisions to Parts 51, 52, and 81; to the policy proposed in the April 2, 1985, preamble; and to the guideline documents discussed in the April 2, 1985, notice. As explained in that notice, comment period extensions until June 3, 1985, were granted by EPA on the March 20, 1984, proposals of revised particulate matter NAAQS (40 CFR Part 50), revisions to ambient air monitoring reference and equivalent methods (40 CFR Part 53), revisions to air quality surveillance regulations (40 CFR Part 58), and retention of total suspended particulates as the definition of particulate matter for purposes of prevention of significant deterioration. The comment periods for these March 20, 1984, proposals are not being extended and will close on June 3, 1985.

Dated: May 20, 1985.

Charles L. Elkins,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 85–12709 Filed 5–24–85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[A–5–FRL–2841–1]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed rulemaking; correction and extension of the public comment period.

SUMMARY: This notice provides additional information which was inadvertently omitted from the proposed rulemaking to disapprove a revision to the Illinois State Implementation Plan

(SIP) for Total Suspended Particulates (TSP). This proposed rulemaking pertained to the incorporation of a source specific variance for the Sours Grain Company into the Illinois SIP. USEPA proposed disapproval of the requested SIP revision based on the failure of the State to demonstrate that the variance would not jeopardize attainment and maintenance of the TSP national ambient air quality standards (NAAQS). This proposed rulemaking was published in the April 4, 1985 **Federal Register** (50 FR 13390). The public comment period is also being extended until June 30, 1985, to allow commentors to review this correction and set forth comments.

DATE: Comments must be received on or before June 30, 1985.

ADDRESS: Comments should be submitted to: Gary V. Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch, Region V, U.S. Environmental Protection Agency (5AR-26), 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, (312) 886-6035.

SUPPLEMENTARY INFORMATION:

Correction: On page 13391 of the April 4, 1985, **Federal Register** in the second column after the first full paragraph, the following two paragraphs were inadvertently omitted:

The deficiency cited as USEPA's rational for disapproval can be overcome if the State submits an attainment demonstration as discussed above, which is acceptable to USEPA.

"Alternatively, the date could petition USEPA for an extension of time to attain the secondary standard for this area as provided in § 51.13 of Title 40 of the Code of Federal Regulations. Such a petition can be granted if the State demonstrates that good cause exists for postponing the application of this control technology. The length of the postponement of the attainment date is dependent, among other factors, on the social, economic and technological problems involved in carrying out the control strategy. USEPA will propose rulemaking if the State submits an attainment demonstration or petitions for an extension of time to attain the secondary standard."

Dated: May 16, 1985.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 85-12707 Filed 5-24-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 85-138; RM-4778]

FM Broadcast Stations in Silver Springs, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes a first FM allotment to Silver Springs, Florida, in response to a petition filed by Steven and Georgia Hainline.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

DATE: Comments must be filed on or before July 5, 1985, and reply comments on or before July 22, 1985.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rulemaking

In the matter of amendment of § 73.202(b), table of allotments, FM broadcasting stations. (Silver Springs, Florida) MM Docket No. 85-138 RM-4778.

Adopted May 6, 1985.

Released: May 14, 1985.

By the Chief, Policy and Rules Division.

1. Before the Commission is a petition for rule making filed by Steven and Georgia Hainline, which seeks the allotment of Channel 238A to Silver Springs, Florida, as its first FM channel. Petitioners stated their intent to apply for the channel.

2. We believe that the petitioners' proposal warrants consideration. The transmitter site must be restricted to 4.2 miles northeast of the city to avoid short spacing to Station WMGG(FM) (Channel 239), Clearwater, Florida.

3. In view of the foregoing, the Commission seeks comments on the proposal to amend the FM Table of Allotments, § 73.202(b) of the Rules, with regard to the community listed below:

City	Channel No.	
	Present	Proposed
Silver Springs, FL		238A

4. The Commission's authority to institute rule making proceedings, showing required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before July 5, 1985, and reply comments on or before July 22, 1985, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant as follows: Norman Bie, Jr., Southeast Bank Building, Suite 612, 801 West Bay Drive, Largo, Florida 33540.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of assignments, §§ 73.202 (b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend § 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 Fed. Reg. 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner consititute an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the commnent, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Allotments, §73.202(b) of the

Commission' Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel it it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See §1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dats set forth in the *Notice of Proposal Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, and original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examnation by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 85-12528 Filed 5-24-85; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 85-136; RM-4918]

FM Broadcast Stations in Warren, OH

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the allotment of Channel 291A to Warren, Ohio, as that community's first local FM service, at the request of CKP, Incorporated.

DATES: Comments must be filed on or before July 5, 1985, and reply comments on or before July 22, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations, (Warren, Ohio) MM Docket No. 85-136, RM-4918.

Adopted May 6, 1985.
Released: May 14, 1985.
By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the petition for rule making filed by CKP, Incorporated ("petitioner") requesting the allocation of Channel 291A to Warren, Ohio, as that community's first local FM service. Petitioner states that it will apply for the frequency, if allocated.

2. Channel 291A can be allocated to Warren in compliance with the Commission's minimum distance separation requirement, if the transmitter is restricted to an area at least 2.6 kilometers (1.6 miles) northeast of the community. This restriction will avoid a short-spacing to Station WVNO-FM, Channel 291, at Mansfield, Ohio.

3. Warren, Ohio, is located within 320 kilometers (200 miles) of the U.S.-Canada border. Therefore, the concurrence of the Canadian Government must be received before the allocation can be finalized.

4. We believe the public interest would be served by proposing the allocation of Channel 291A to Warren, as it could provide that community with its first local FM service. Accordingly, we propose to amend the FM Table of Allotments, § 73.202(b) of the Rules, for the community listed below, to read as follows:

City	Channel No.	
	Present	Proposed
Warren, Ohio		291A

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allocated.

6. Interested parties may file comments on or before July 5, 1985, and reply comments on or before July 22, 1985, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner, as follows: Harry G. Sells, Sells and Gregory, 10401 Georgetown Pike, Great Falls, Virginia 22066 (Counsel to petitioner).

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are

prohibited in Commission proceedings, such as this one, which involve channel allocations. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed constitutes an *ex parte* presenation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division Mass Media Bureau

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporrates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the Communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rule and Regulaitons, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied be a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 85-12527 Filed 5-24-85; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-1135; RM-4581, RM-4673; MM Docket No. 84-378; RM-4300, et al.]

TV Broadcast Stations in Cullowhee and Andrews, NC, et al.

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: At the request of various petitioners, the Commission proposes to assign Channel 56 to Arab, Alabama, Channel 22 to Tuskegee, Alabama, by substituting Channel *34 for Channel *22 at Panama City, Florida, Channel 63 to Monroe, Georgia, and Channel 50 to Cullowhee, North Carolina, by substituting Channel *41 for Channel *51 at Flintstone, Georgia, and Channel *51 for Channel *50 at Young Harris, Georgia. These assignments could provide each community with its first local television service. We also propose to assign UHF TV Channel *24 to Bowling Green, Kentucky, as that community's second local noncommercial educational allocation.

DATES: Comments must be filed on or before June 28, 1985, and reply comments on or before July 15, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

Second Further Notice of Proposed Rulemaking

In the matter of Amendment of § 73.606(b), table of assignments, television broadcast stations. (*Cullowhee* and Andrews, *North Carolina, Flintstone,* [1] Roswell and *Young Harris,*[1] *Georgia*) MM Docket No. 83-1135, *RM-4581,* RM-4673.

Amendment of Section 73.606(b), table of assignments, television broadcast stations. (Knoxville, Chatanooga, and *Athens, Tennessee,* Opelika, *Arab and Tuskegee,*[1] *Alabama,* Dalton and *Monroe, Georgia, Bowling Green, Kentucky,* and *Panama City, Florida* [1]) MM Docket No. 84-378, RM-4300, RM-4493, RM-4353, *RM-4604,* RM-4396, *RM-4798, RM-4441, RM-4814, RM-4442, RM-4819.*

Adopted: April 30, 1985.
Released: May 7, 1985.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the *Further Notice of Proposed Rule Making,* 49 FR 19070, published May 4, 1984, wherein we requested comments on several optional assignment plans looking toward new television allocations in Alabama, Georgia, Kentucky, North Carolina and Tennessee. By a *First Report and Order* in this proceeding, we have assigned UHF TV Channel 50 to Opelika, Alabama, and UHF TV Channel 23 to Dalton, Georgia, and denied the requests to assign: (1) UHF TV Channel 59 to Roswell, Georgia, with the concomitant substitution of UHF TV Channel *24 for Channel *59 at Andrews, North Carolina; (2) UHF TV Channel 63 to Knoxville, Tennessee; and (3) UHF TV Channel 23 to Chattanooga, Tennessee. The remaining proposals, if adopted, would permit the provision of a first

[1] These communities have been added to the caption.

local service to five communities and a second local noncommercial educational service to an additional community. However, further comments are necessary before we can arrive at a final decision on these remaining communities as comments and counterproposals have been received which involve channel assignments which differ from or conflict with those proposed in the *Further Notice*. The assignment plans proposed in the *Further Notice* are as follows:

City	Channel No.	
	Present	Proposed
Plan I		
Arab, AL		56–.
Opelika, AL	66	50 and 66.
Dalton, GA		23.
Monroe, GA		63.
Cullowhee, NC		31–.
Plan II		
Arab, AL		56–.
Opelika, AL	66	50 and 66.
Dalton, GA		23.
Monroe, GA		63.
Roswell, GA		59.
Andrews, NC	*59	*24.
Plan III		
Arab, AL		56–.
Opelika, AL	66	50 and 66.
Dalton, GA		23.
Cullowhee, NC		31–.
Knoxville, TN	6, 8, 10+, *15–, 26–, and 43+.	6, 8, 10+, *15–, 26–, 43+, and 63.
Plan IV		
Arab, AL		56–.
Opelika, AL	66	50 and 66.
Dalton, GA		23.
Roswell, GA		59.
Andrews, NC	*59	*24.
Knoxville, TN	6, 8, 10+, *15–, 26–, and 43+.	6, 8, 10+, *15–, 26–, 43+, and 63.
Plan V		
Arab, AL		56–.
Opelika, AL	66	50 and 66.
Bowling, Green, KY	13, 40+, *53– and 59+.	13, *24–, 40+, *53–, and 59+.
Cullowhee, NC		31–.
Athens, TN	*24	*63.
Chattanooga, TN	3+, 9, 12+, *45, and 61–.	3+, 9, 12+, 23, *45, and 61–.
Plan VI		
Arab, AL		56–.
Opelika, AL	66	50 and 66.
Roswell, GA		59.
Bowling, Green, KY	13, 40+, *53– and 59+.	13, *24–, 40+, *53–, and 59+.
Andrews, NC	*59	*24.
Athens, TN	*24	*63.
Chattanooga, TN	3+, 9, 12+, *45, and 61–.	3+, 9, 12+, 23, *45, and 61–.
Plan VII		
Arab, AL		56–.
Opelika, AL	66	50 and 66.
Dalton, GA		23.
Bowling, Green, KY	13, 40+, *53– and 59+.	13, *24–, 40+, *53–, and 59+.
Cullowhee, NC		31–.
Athens, TN	*24	*63.

City	Channel No.	
	Present	Proposed
Plan VIII		
Arab, AL		56–.
Opelika, AL	66	50 and 66.
Dalton, GA		23.
Roswell, GA		59.
Bowling, Green, KY	13, 40+, *53– and 59+.	13, *24–, 40+, *53–, and 59+.
Andrews, NC	*59	*24.
Athens, TN	*24	*63.

2. Comments have been received from parties expressing continuing interest in the assignment of a television channel to each of the proposed communities. The individual communities and comments received thereon will be discussed below. The Association of Maximum Service Telecasters ("AMST") submitted late-filed comments urging that any allocations which are finalized be done so in compliance with the Commission's mileage separation requirements.[2]

The Individual Proposals

3. *Cullowhee, North Carolina* (RM–4581 and RM–4819): Comments were filed on behalf of Greg Ryder ("Ryder") proposing the assignment of Channel 50 atr Cullowhee instead of the originally proposed Channel 31.[3] He states that Channel 50 can be assigned to Cullowhee if noncommercial educational Channel *51 is substituted for Channel *50 at Young Harris, Georgia, and if Channel *41 is substituted for Channel *51 at Flintstone, Georgia. Neither the Young Harris nor the Flintstone allocation is occupied or applied for. Ryder states that Channel 50 can be assigned to Cullowhee without conflicting with any of the other proposals under consideration herein and will also allow use of Channel 63 at Knoxville, Tennessee, Channel 50 at Opelika, Alabama, and Channel 23 at Dalton, Georgia.

4. *Arab, Alabama* (RM–4442) and *Tuskegee, Alabama* (RM–4798): At the request of BMTC Systems, Inc. ("BMTC"), the Commission proposed that UHF TV Channel 56 be assigned to Arab, as that community's first local television facility. Under the allocation plans proposed in the *Further Notice*, the assignment of Channel 56 did not conflict with any of the other proposals. However, on April 27, 1984, Harry Dickson Norman, Jr. and Johhny Ford ("Norman and Ford") filed a petition for rule making requesting the assignment of Channel 56 to Tuskegee, Alabama, as that community's first local TV allocation.[4] Norman and Ford state that they expect their facility to serve approximately 250,000 TV households within an area of approximately 14,000 square miles. Tuskegee (population 13,327)[5] is located in eastern Alabama, approximately 60 kilometers (38 miles) east of Montgomery, Alabama. Tuskegee and Arab are located 139 miles apart, whereas the Commission's rules require a 175 mile separation for co-channel assignments. BMTC submitted reply coments stating that both communities could receive a Channel 56 allocation, in compliance with our spacing requirements, if Tuskegee Channel 56 was sited 18 miles south and Arab Channel 56 was sited 18 miles north. Based on this belief, BMTC requested that both assignments be made. Subsequently, BMTC filed a Supplement to its reply comments, stating that it was in error when it claimed both Arab and Tuskegee could receive co-channel allocations through the use of site restricitons.[6] However, it stated that another solution was available which would provide both communities with their first local television service. BMTC proposes that Channel 56 be assigned to Arab and that Channel 22 be assigned to Tuskegee. Channel 22 is available for use at Tuskegee if it is deleted from Panama City, Florida, where it is reserved for noncommercial educational use, and replaced with Channel *34. The current assignment at Panama City is unoccupied and unapplied for. None of

[2] AMST states in its comments that it did not file on a timely basis because it was not able to receive an analysis of the rule making prior to the close of the comment period due to the complexity of the proposals. Altough it alleges that some of the proposals do violate the spacing requirements, AMST never submited any detailed analysis. Without this detailed analysis, we see no benefit to be derived from accepting its late-filed comments. As always, we will assure ourselves that all assignments do comply with the distance separation rules.

[3] Public Notice of the filing of this counterproposal was given on June 29, 1984, Report No. 1466.

[4] Public Notice of the filing of this counterproposal was given on May 14, 1984, Report No. 1460.

[5] Population figures are taken from the 1980 U.S. Census, unless otherwise indicated.

[6] We note that BMTC's Supplement to its reply comments is not a normally authorized pleading. However, we believe that acceptance of this pleading is in the public interest in that it has brought to the Commission's attention an allocation scheme which, if adopted, could allow both communities to receive a first local television service. Therefore, we have accepted the pleading and will seek comments on BMTC's alternate assignment plan.

the channel assignments proposed require the imposition of a site restriction.

5. *Monroe, Georgia* (RM–4441): At the request of Monroe Television, Inc. ("Monroe TV"), we proposed the assignment of Channel 63 to Monroe, as that community's first local television assignment. Channel 63 at Monroe conflicts with the proposed substitution of noncommercial educational Channel *63 for Channel *24 at Athens, Tennessee, and Channel *24's reassignment to Bowling Green, Kentucky, as requested by Western Kentucky University. See paragraph 6, *infra*. Monroe TV filed comments reiterating its intention to apply for the channel, if assigned. Of the eight assignment plans proposed in the *Further Notice*, Plans I and II provide for the assignment at Monroe and it therefore supports the adoption of either plan. According to Monroe TV, both Plans I and II would provde four communities with their first local channel. However, it feels that Plan I is the superior choice, as the new service would be given to communities which are not associated with larger metropolitan areas. Plan II would assign Channel 59 to Roswell, Georgia, in Fulton County, which is part of the Atlanta metropolitan area.[7] Monroe TV contends that if Plan I is adopted, the four new television stations could provide a Grade B contour over an area of 6000 square miles within which, 1,768,768 persons reside. It bases this determination upon what it terms to be reasonable facilities of 2000 kW and 1000 feet HAAT for each station. Monroe TV contends that only one station presently provides any service within this area, that is Channel 34 at Athens, Georgia.

6. *Bowling Green, Kentucky* (RM–4604 and RM–4814): At the request of Western Kentucky University ("WKU"), we proposed the assignment of Channel *24 to Bowling Green, as that community's second local noncommercial educational assignment. We also stated that the assignment of Channel *24 at Bowling Green required the substitution of UHF TV Channel *63 for unoccupied and unapplied for noncommercial educational Channel *24 at Athens, Tennessee. This sustitution of channels at Athens conflicts with the assignment of Channel 63 at Monroe, Georgia. According to the *Further Notice*, assignment Plans V–VIII, inclusive, would permit the assignment of Channel *24 to Bowling Green. WKU, in its comments, contends that Channel *24 can be assigned under all of the assignment options, with the use of appropriate site restrictions. It states that under Plans II and IV, the assignment of Channel *24 at Andrews, North Carolina, if sited approximately 5.2 miles northwest, would permit use of Channel *24 at Bowling Green, with a site restriciton of approximately 14.4 miles northwest.[8] Under Plans I and III, which propose the retention of Channel *24 at Athens, Tennessee, it states that Channel *24 can be assigned to Bowling Green if the Athens transmitter is restricted to an area approximately 14 miles east-southeast of that community. Aternatively, WKU proposes that Channel *24 be assigned to Bowling Green under Plans I and III and that Channel *42 be substituted for Channel *24 at Athens. (RM–4814) [9] It states that this can be accomplished if unoccupied and unapplied for Channel *42 at Nashville, Tennessee, is deleted and Channel *68 is assigned instead. The assignment of Channel *42 at Athens would require a site restriction of at least 4.7 miles west and Channel *68 at Nashville would require a site restriciton of at least 10.3 miles south. As a final matter, WKU notes that it has on file an application for educational use of commercial Channel 59 at Bowling Green. It states that should Channel *24 be assigned to Bowling Green it would amend its application to specify use of the newly assigned educational channel.[10] We note that should WKU amend its application to specify operation on Channel *24 at Bowling Green, it must also specify a new transmitter site. Channel *24 at WKU's proposed site for Channel 59 would be short-spaced to Station WKZT at Elizabethtown, Kentucky, and Station WFYZ at Murfreesboro, Tennessee.

7. Channel 39 of Murfreesboro, Ltd. Partnership, licensee of Station WFYZ(TV) Murfreesboro, Tennessee ("WFYZ"), filed comments in support of WKU's counterproposal to substitute Channel *68 for Channel *42 at Nashville, Tennessee. According to WFYZ, Murfreesboro is part of the Nashville-Davidson, Tennessee, Standard Metropolitan Statistical Area ("SMSA"). However, due to the assignment of Channel *42 at Nashville, it is unable to locate its transmitter in an area that would permit coverage of both Murfreesboro and Nashville. WFYZ states that if we were to make the channel substitution, it could then relocate its transmitter to an area which would permit Station WFYZ to expand its service area. It concludes that the public interest would be well served by offering a greater diversity of media voices in the area, while retaining an educational assignment which could provide a second such service to the residents of the Nashville area.

8. We have carefully reviewed all of the pleadings submitted. As discussed in paragraph 1, *infra*, the requests for the assignment of channels at Knoxville and Chattanooga, Tennessee, Roswell, Georgia, and Andrews, North Carolina, have been denied. Channel 50 has been assigned to Opelika, Alabama, and Channel 23 has been assigned to Dalton, Georgia, as they could be accomplished without affecting any of the remaining proposals herein. This leaves for further consideration four requests for first local service and one request for a second local noncommercial educational service. The assignment of Channel 50 at Cullowhee along with the concomitant changes in Young Harris and the Flintstone, can be accomplished without conflicting with any of the remaining proposals. The assignment of Channel *41 at Flintstone requires a site restriction of 1.4 miles south, the assignment of Channel *51 at Young Harris requires a site restriction of 4.7 miles west, and the assignment of Channel 50 at Cullowhee requires a site restriction of 6.9 miles north. The site restriction on Channel 50 at Cullowhee is far less than that required for use of originally proposed Channel 31. However, in view of the close proximity of Cullowhee to the Great Smoky Mountains National Park, we request that Ryder confirm that Channel 50 can be utilized at a site outside of the National Park and in conformance with the mileage separation requirements.

9. Our analysis of WKU's comments and counterproposals reveals that it may not be necessary to substitute Channel *63 for Channel *24 at Athens, Tennessee, or to substitute Channel *68 for Channel *42 at Nashville, Tennessee, in order to assign Channel *24 to Bowling Green. Channel *24 can be assigned to Bowling Green in compliance with the mileage separation requirements if it is site restricted to an area 14.4 miles northwest and Channel *24 at Athens is restricted to an area 13.6 miles east. This 13.6 mile site restriction at Athens will also permit the assignment of Channel 63 to Monroe.

[7] The assignment of Channel 59 at Roswell, Georgia, has been denied. See *First Report and Order*, adopted April 30, 1985.

[8] The assignment of Channel *24 at Andrews, North Carolina, has been denied in the *First Report and Order* in this proceeding, adopted April 30, 1985.

[9] Public Notice of the counterproposal was given on June 6, 1984, Report No. 1485.

[10] WKU's application, File No. BPET–840116KF, was put on Public Notice March 8, 1984, and was granted cut-off status as of April 13, 1984. No competing applications were accepted.

Georgia. Since the imposition of site restrictions on the use of Channel *24 at both Athens and Bowling Green can allow grant of WKU's petition without necessitating a substitution of channels at Nashville, we believe the public interest would be served by holding the Nashville counterpropsal, as well as the Channel *63 replacement at Athens, in abeyance at this time. However, in the event that any interested party provides us with a convincing showing that the site restriction for the Athens Channel *24 assignment poses insurmountable siting difficulties, we also seek comments on the use of Channel *24 at Bowling Green by substituting Channel *42 or Channel *63 at Athens. We would also like to note that if it is necessary to propose the assignment of Channel *42 at Athens by substituting channels at Nashville, a mutual adjustment in sites between Channel *42 at Athens and Channel *41 at Flintstone, Georgia, would also be required.

10. We also believe the public interest would be served by requesting comments on BMTC's counterproposal that Channel 56 be assigned to Arab and that Channel 22 be assigned to Tuskegee, Alabama, by substituting Channel *34 for Channel *22 at Panama City, Florida. The assignments, as proposed, can be made in conformance with the Commission's mileage separation requirements and do not require the imposition of any site restrictions. Although the assignments proposed below do not reflect the possibility of assigning Channel 56 to Tuskegee, at the expense of allocating that channel to Arab, we request comments on this possibility should we find that the substitution of channels at Panama City is not feasible.

11. We believe the public interest would be served by seeking comments on the proposed assignment plan listed below. As stated in paragraph 8, *supra*, Ryder or any other party interested in a Channel 50 assignment at Cullowhee is specifically requested to address the transmitter site issue raised therein. Accordingly, we propose to amend the Television Table of Assignments, § 73.606(b) of the Commission's Rules, as concerns the communities listed below, to read as follows:

City	Channel No.	
	Present	Proposed
Arab, AL		56–
Tuskegee, AL		22–
Panama City, FL	*22+	*34
Flintstone, GA	*51–	*41–
Monroe, GA		63
Young Harris, GA	*50+	*51–
Bowling Green, KY	13, 40+, *53–, and 59+	13, *24–, 40+, *53–, and 59+
Cullowhee, NC		50+

12. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

13. Interested parties may file comments on or before June 28, 1985, and reply comments on or before July 15, 1985, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, as follows:

Dwight R. Magnuson, P.E., Omni Communications, Inc., One Regency Square, Suite 450, Knoxville, Tennessee 37915, (Consultant to Greg Ryder—Cullowhee)

Alfred C. Cordon, Esq., Cordon and Jacob, Second Floor, 1920 N Street, NW., Washington, D.C. 20036, (Counsel to Monroe Television, Inc.—Monroe, Georgia)

Brian M. Madden, Esq., Cohn and Marks, 1333 New Hampshire Avenue, N.W., Suite 600, Washington, D.C. 20036, (Counsel to Western Kentucky University—Bowling Green, Ky.)

Phyllis A. Whitten, Esq., Daly, Joyce and Borsari, 1830 Jefferson Place, N.W., Washington, D.C. 20036, (Counsel to BMTC Systems, Inc.—Arab, Alabama)

Harry Dickson Norman, Jr., 705 2nd Avenue, Opelika, Alabama 36801, (Petitioner for Tuskegee, Alabama)

14. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

15. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(e)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filingsa in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this

effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 85-12699 Filed 5-24-85; 8:45 am]
BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1312

[Ex Parte No. MC-175]

International Joint Through Rates Involving Ocean Carriers—Revision of Tariff Filing Requirements

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is proposing to amend 49 CFR by eliminating the requirement at (c)(1) that international joint through rate tariffs involving ocean carriers include the division or rate to be received by the domestic carrier for its share of the revenue covering a through shipment or aggregate of shipments under the tariff. The tariff change is proposed in a petition for intitiation of a rulemaking proceeding filed by Sea-Land Serice, Inc. Sea-Land contends that the requirement is inconsistent with the Shipping Act of 1984. The Commission is also seeking comments on proposals seeking elimination of all § 1312.37 filling requirements.

As an interim measure, the Commission: (1) has, effective immediately, granted the pending requests for special permission relief to waive the inland division filing requirement; and (2) has extended this relief to international joint through rate tariffs of all ocean carriers.

DATES: Comments are due June 27, 1985. Petitioners' replies are due July 12, 1985.

ADDRESS: The original and, if possible, 15 copies of comments should be sent to: Ex Parte No. MC-175, Case Control Branch, Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

A copy of the comments should be sent to petitioners' representatives:

Sea-Land Service, Inc.,
B. Carlton Bailey, Jr., Sea-Land Corporation, P.O. Box 800, Iselin, NJ 08830
Karl E. Bakke, Ragan & Mason, 900 Seventeenth Street, NW., Washington, DC 20006
The "8900" Lines, et al., Terrence D. Jones, Marc J. Fink, Michael G. Roberts, Billing, Sher & Jones, P.C., Suite 300, 2033 K Street, NW., Washington, DC 20006
The Trans-Pacific Freight Conference of Japan/Korea, Charles F. Warren, George A. Quadrino, Benjamin K. Trogdon, Warren & Associates, P.C., 1100 Connecticut Avenue, NW., Washington, DC 20036

FOR FURTHER INFORMATION CONTACT: Marc A. Lerner, (202) 275-7150 or Howell I. Sporn, (202) 275-7691.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To obtain a copy of the full decision, write to Office of the Secretary, Room 2215, Interstate Commerce Commission, Washington, DC 20423, or call 202-275-7428.

This action is taken under the authority of 5 U.S.C. 553, 49 U.S.C. 10321, and 10505.

Energy and Environmental Considerations

This action does not appear to affect significantly either the quality of the human environment or the conservation of energy resources.

Regulatory Flexibility Analysis

The Commission certifies that the proposed rule change, if adopted, will not have a significant economic impact on a substantial number of small entitites. The rule change would bring Commission regulations into harmony with the pro-competitive rate provisions of the Shipping Act of 1984.

List of Subject in 49 CFR Part 1312

Freight forwarders, Maritime carriers.

Decided: May 8, 1985.

By the Commission, Chairman Taylor, Vice Chairman Gradison, Commissioners Sterrett, Andre, Simmons, Lamboley and Strenio. Commissioner Lamboley concurred in the result. Commissioner Simmons dissented in part with separate expression.

James H. Bayne,

Secretary.

Commissioner Simons, dissenting in part:

The majority correctly states that there are clear statutory impediments to the complete elimination of tarff filing requirements. I see no reason to propose a rule which we have virtually prejudged to be outside our statutory mandate.

APPENDIX

PART 1312—[AMENDED]

49 CFR Part 1312 is proposed to be amended as follows:

(1) The authority citation for Part 1312 would continue to read as follows:

Authority: 49 U.S.C. § 10762; 5 U.S.C. 553.

(2) Section 1312.37 is proposed to be amended by revising paragraph (c) (1) to read as follows:

§ 1312.37 Export and import traffic and joint rates with ocean carriers.

* * * * *

(c) * * * (1) The tariff containing the joint rates shall comply with all of the other requirements of this part.

* * * * *

(3) Section 1312.37(c)(1) is proposed to be amended by removing the word "the" after "provided" and adding the phrase "that any separately stated" in its place.

(4) Section 1312.37 is proposed to be amended by revising the last sentence of paragraph (d)(2) to read as follows: If the tariff separately states the division, rate, or charge accuring to the domestic carrier, and if a change occurs in such division, rate, or charge, the amendment shall contain a statement explaining the change.

[FR Doc. 85-12691 Filed 5-24-85; 8:45 am]
BILLING CODE 2035-01-M

Notices

Federal Register
Vol. 50, No. 102
Tuesday, May 28, 1985

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 11-85]

Proposed Foreign-Trade Zone and Subzone; Flint, MI, Application and Public Hearing

An Application has been submitted to the Foreign-Trade Zones Board (the Board) by the City of Flint, Michigan, requesting authority to establish a general-purpose foreign-trade zone, and a subzone for the General Motors Corporation's automobile manufacturing plant in Flint, Michigan, within the Saginaw/Bay City/Flint Customs port of entry. It was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400), and was formally filed on May 15, 1985. The applicants are authorized to make this proposal under Act 154, Public Act of the State of Michigan, 1963.

The proposed general-purpose zone will involve 2 sites adjacent to Bishop International Airport. Site 1 covers 20 acres at G-4075 West Bristol Road and includes an existing warehouse. This facility is owned and operated by National Cartage Company, Inc., which has been selected to handle warehouse activities. Site 2 is at a 65-acre city industrial park on Torrey Road. Individual parcels would be activated on a case-by-case basis for companies requiring zone procedures.

The application contains evidence of the need for zone services in the Flint area. Several firms have expressed an interest in using zone procedures for the storage and processing of articles, such as tool and die products, power tool accessories, communication equipment, diesel engines, ceramic products, robotics systems, and a variety of auto parts. Cirtek Corporation, located in Site 2, is proposing to use zone procedures to produce automobile electronic components, and to add electronic devices to imported auto parts such as steering columns. The company imports capacitors, transistors and auto parts on which work is performed. Most of the completed components and modified parts are shipped to U.S. auto assembly plants. Any other manufacturing requests would be reviewed by the Board on a case-by-case basis.

The subzone would involve GM's "Buick City" auto manufacturing plant, 902 E. Hamilton Avenue, Flint. The 425-acre facility is currently being renovated to produce new, full-sized, front-wheel-drive Buicks and Oldsmobiles, employing up to 5000 persons. An adjacent 23-acre parcel would be included for a related parts handling facility. About 1 to 2 percent of the parts and material to be used at the plant will be dutiable, including radios, speakers, tape players, circuit boards, wheels and springs. Exports are expected to be in the 5 percent range.

Zone procedures would exempt GM from duty payments on the foreign parts it uses on its exports. On domestic sales, the company will be able to take advantage of the same duty rate available to importers of finished autos. The average duty rate on the components GM uses is 4.2 percent, whereas the rate for complete autos is 2.6 percent. The savings from subzone status would contribute to the company's overall cost reduction program, helping its U.S. plants compete with auto plants abroad.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: John J. Da Ponte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; William Morandini, District Director, U.S. Customs Service, North Central Region, 477 Michigan Avenue, Detroit, MI 48226; and Colonel Raymond T. Beurket, District Engineer, U.S. Army Engineer District Detroit, P.O. Box 1027, Detroit, MI 48231.

As part of its investigation, the examiners committee will hold a public hearing on June 26, 1985, beginning at 9:00 A.M., in the City Council Chambers, City Hall, 1101 South Saginaw, Flint.

Interested parties are invited to present their views at the hearing. Persons wishing to testify should notify the Board's Executive Secretary in writing at the address below or by phone (202/377-2862) by June 20. Instead of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the examiners committee, care of the Executive Secretary, at any time from the date of this notice through July 26, 1985.

A copy of the application is available for public inspection at each of the following locations:

Dept. of Community Development, City of Flint, 1101 South Saginaw, Flint, MI 48502

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1529, 14th and Pennsylvania, NW., Washington, D.C. 20230.

Dated: May 20, 1985.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 85-12713 Filed 5-24-85; 8:45 am]

BILLING CODE 3510-DS-M

COMMISSION OF FINE ARTS

Notice of Meeting

The Commission of Fine Arts will next meet in open session on Friday, June 28, 1985, at 10:00 a.m. in the Commission's offices at 708 Jackson Place NW., Washington, D.C. 20006 to discuss various projects affecting the appearance of Washington including buildings, memorials, parks, etc., also matters of design referred by other agencies of the government. Access for handicapped persons will be through the main entrance to the New Executive Office Building on 17th Street between Pennsylvania Avenue and H Street NW.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Mr. Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address or call 566-1066.

Dated in Washington, D.C., May 15, 1985.

Charles H. Atherton,

Secretary.

[FR Doc. 85-12701 Filed 5-24-85; 8:45 am]

BILLING CODE 6330-01-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Changes to the Textile Category System

May 22, 1985.

The Correlation, Textile and Apparel Categories with the Tarriff Schedules of the United States, Annotated, provides for placement of Tariff Schedules of the United States, Annotated (T.S.U.S.A.) numbers in the Textile Category System. Amendments to the T.S.U.S.A., reflecting certain administrative changes, require changes in the correlation. These changes are cited in the list which follows this notice.

EFFECTIVE DATE: April 1, 1985.

FOR FURTHER INFORMATION CONTACT:

Philip J. Martello, International Agreements and Monitoring Division, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–4212).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

CHANGES IN THE CORRELATION TO THE TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (TSUSA)

Category	TSUSA No.	Abbreviated description	Units of quantity
(600)	310.6003*	Textured yarns	Lb.—
(604)	[310.6005]	Wh non-cont Textured MMF yarns containing wool	Lb.—
(600)	[310.6010]	Other Textured yarns, man-made fiber	Lb.—
(604)	310.6042*	MMF Yn containing 85% Noncont/noncellu mixed with wool	Lb.—
(604)	[310.6045]	Other wh non-cont MMF Yn, containing wool	Lb.—
(600)	[310.6050]	Other MMF yarns	Lb.—
(600)	310.6055*	Other MMF yarns	Lb.—
(614)	338.01505*	Woolens of Polyester spun yarn	Syd. Lb.
(614)	338.1508*	Woolens of Acrylic spun yarn	Syd. Lb.
(614)	338.1511*	Woolens of other spun yarns	Syd. Lb.
(614)	[338.1515]	Wov fab or rayon or acetate, ov $2 lb 17% wl, subj MMF res	Syd. Lb.
(614)	[338.1502]	Wov Nylon fab, 17% wl, ov $2 lb, subj MMF restr	Syd. Lb.
(614)	338.1525*	Worsteds of Polyester spun yarns	Syd. Lb.
(614)	338.1528*	Worsted of Acrylic spun yarns	Syd. Lb.
(614)	[338.1530]	Wov Polyester fab. 17% wl, ov $2 lb subj MMF restr	Syd. Lb.
(614)	338.1531*	Worsteds of other spun yarns	Syd. Lb.
(614)	[338.1540]	Wov MMF fab, other 17% wl, ov $2 lb, subj, MMF restr	Syd. Lb.
(614)	[338.1550]	Oth wov Rayon/Acetate fab, 17% wl, ov $2 lb, subj restr	Syd. Lb.
(614)	338.1552*	Woolens of other Polyester yarns—for Neckties	Syd. Lb.
(614)	338.1554*	Woolens, other of Polyester yarns	Syd. Lb.
(614)	338.1556*	Woolens, other of Acrylic yarns	Syd. Lb.
(614)	338.1558*	Woolens or other MMF yarns	Syd. Lb.
(614)	[338.1560]	Oth Nylon wov fab, 17% wl, ov $2 lb, subj MMF restr	Syd. Lb.
(614)	338.1562*	Worsteds of Polyester yarns—for Neckties	Syd. Lb.
(614)	338.1564*	Worsteds other of Polyester yarns	Syd. Lb.
(614)	338.1566*	Worsteds of other Acrylic yarns	Syd. Lb.
(614)	338.1572*	Worsteds or other MMF yarns	Syd. Lb.
(614)	[338.1574]	Polyester wov necktie fab, 17%, wl, subj MMF restr	Syd. Lb.
(614)	[338.1578]	Other Polyester wov fab 17% wl, ov $2 lb, sub MMF rest	Syd. Lb.
(614)	[338.1580]	Oth MMF fabrics 17% wl, ov $2 lb, subj MMF restr	Syd. Lb.
(612)	338.5003*	Wov fab of high-tenacity Nylon or Polyester yarns	Syd. Lb.
(610)	338.5004*	Wov fab, cont high-tenacity Viscose Rayon yns, n/o 5 oz/syd	Syd. Lb.
(612)	338.5005*	Wov fab of non-cellulosic man-made fiber strips	Syd. Lb.
(610)	[338.5006]	MMF wov fab, 85% Rayon cont yarns, not yarn-dyed	Syd. Lb.
(610)	338.5006*	MMF wov flat fab, 85% Rayon/Acetate cont non-tex yn-und 5 oz	Syd. Lb.
(610)	[338.5007]	MMF wov fab, 85% Acetate cont yarns, not yarn-dyed	Syd. Lb.
(610)	338.5007*	Oth wov fab, 85% Rayon/Acetate cont yns, n/o 5 oz/syd	Syd. Lb.
(612)	[338.5008]	Wov fab, 85% by weight of cont Nylon yarns	Syd. Lb.
(612)	338.5008*	Wov flat fab, not textured 85% Nylon, n/o 5 oz syd	Syd. Lb.
(612)	[338.5009]	MMF wov Polyester cont yn fab. ot over 5 oz syd	Syd. Lb.
(612)	338.5009*	Other wov fab, 85% by wgt Nylon n/o 5 oz syd	Syd. Lb.
(612)	[338.5010]	MMF wov Polyester cont yn fab, over 5 oz per syd	Syd. Lb.
(612)	338.5010*	Wov flat fab, not text, 85% Poly, unbl or bl, n/o 5 oz	Syd. Lb.
(612)	[338.5011]	Wov fab of cont Polyester yn, not bl or col, n/o 5 oz syd	Syd. Lb.
(612)	338.5011*	Oth wov flat, not text, 85% Polyester, n/o 5 oz syd	Syd. Lb.
(612)	[338.5012]	Wov fab of cont Polyester yn, bl or pe-dyed, n/o 5 oz syd	Syd. Lb.
(612)	338.5012*	Wov text flat fab, 85% Polyester, unl or bl, n/o 5 oz syd	Syd. Lb.
(612)	[338.5013]	Wov fab of Polyester cont yn, yns dif col, n/o 5 oz syd	Syd. Lb.
(612)	338.5013*	Oth wov text flat fab, 85% Polyester, n/o 5 oz syd	Syd. Lb.
(612)	338.5014*	Oth wov fab, not text, 85% Polyester, unbl or bl, n/o 5 oz syd	Syd. Lb.
(612)	[338.5015]	MMF Polyester cont yn fab, printed, n/o 5 oz	Syd. Lb.
(612)	338.5015*	Other wov fab, not text, 85% Polyester, n/o 5 oz syd, dyed	Syd. Lb.
(612)	338.5016*	Other wov fab, not tex, 85% Poly, yns dif col, n/o 5 oz syd	Syd. Lb.
(612)	[338.5017]	Wov fab of cont non-cellu yns, not bl or col, ov 5 oz syd	Syd. Lb.
(612)	338.5017*	Other wov fab, 85% Polyester, printed, n/o 5 oz syd	Syd. Lb.
(612)	[338.5018]	Wov fab of cont non-cellu yns, bl or pe-dyed, ov 5 oz syd	Syd. Lb.
(612)	338.5018*	Oth wov text fab, 85% Polyester, unbl or bl, n/o 5 oz syd	Syd. Lb.
(612)	[338.5019]	Wov fab of cont non-cellu yns, yns dif col, ov 5 oz syd	Syd. Lb.
(612)	338.5019*	Oth wov text fab, 85% Polyester, dyed, n/o 5 oz syd	Syd. Lb.
(612)	[338.5020]	Wov fab of cont non-cellu yns, printed, ov 5 oz syd	Syd. Lb.
(612)	338.5020*	Oth wov text fab, 85% Polyester, yns dif col, n/o 5 oz syd	Syd. Lb.
(612)	[338.5021]	Oth wov fab of cont non-cell yns, over 5 oz syd	Syd. Lb.
(612)	338.5021*	Oth wov text fab, 85% Polyester, printed, n/o 5 oz syd	Syd. Lb.
(612)	338.5022*	Other wov fabrics, cont non-cellu yarns, n/o 5 oz syd	Syd. Lb.
(610)	338.5023*	Oth wov fab, 85% Rayon-acetate cont yns, ov 5 oz syd	Syd. Lb.
(614)	[338.5024]	Polyester wov fab, Mixed yns, mixed w/cotton	Syd. Lb.
(612)	338.5024*	Wov flat fab, not text, 85% Nylon, ov 5 oz syd	Syd. Lb.
(614)	[338.5025]	Oth MMF wov fab, mixed yns, mixed w/cotton	Syd. Lb.
(612)	338.5025*	Oth wov fab, 85% Nylon cont yn, ov 5 oz syd	Syd. Lb.
(614)	[338.5026]	Rayon/Acetate wov fab nes, mixed yns	Syd. Lb.
(612)	338.5026*	Wov flat fab, not text, 85% Poly, unbl or bl, ov 5 oz syd	Syd. Lb.
(612)	338.5027*	Oth wov flat fab, not text, 85% Polyester, ov 5 oz syd	Syd. Lb.
(612)	338.5028*	Wov text flat fab, 85% Polyester, unbl or bl, ov 5 oz syd	Syd. Lb.
(614)	[338.5029]	Polyester wov fab nes, mixed yns, mixed W Polyester	Syd. Lb.
(612)	338.5029*	Oth wov text flat fab, 85% Polyester, dyed, ov 5 oz syd	Syd. Lb.

CHANGES IN THE CORRELATION TO THE TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (TSUSA)—Continued

Category	TSUSA No.	Abbreviated description	Units of quantity
(614)	[338.5030]	Woven Polyester Necktie fabric, mixed yarns	Syd. Lb.
(612)	338.5030*	Other wov flat text fab, 85% Poly, yns dif col, ov 5 oz syd	Syd. Lb.
(614)	[338.5031]	Other mixed yarn Polyester wov fabric	Syd. Lb.
(612)	338.5031*	Oth wov text flat fav, 85% Polyester, printed, ov 5 oz syd	Syd. Lb.
(612)	338.5032*	Oth wov fab, not text, 85% Polyester, bl or unbl, ov 5 oz	Syd. Lb.
(614)	[338.5033]	Other mixtures of fiber MMF wov fab, mixed yn	Syd. Lb.
(612)	338.5033*	Oth wov fab, not text, 85% Polyester, ov 5 oz syd	Syd. Lb.
(611)	[338.5034]	Wov fab, non-cont Rayon/Acetate/Cot, n/o 5 oz per syd	Syd. Lb.
(612)	338.5034*	Oth wov text fabrics, 85% Polyester, unbl or bl, ov 5 oz syd	Syd. Lb.
(613)	[338.5035]	Wov fab, non-cont yns, pl-weave Poly/Cot., n bl, col, n/o 5 oz	Syd. Lb.
(612)	338.5035*	Oth wov text fabrics, 85% Polyester, ov 5 oz syd	Syd. Lb.
(613)	[338.5036]	Wov pl-wv Poly/Cot fab, non-cont yn, bl/piece-dyed-n/o 5 oz	Syd. Lb.
(612)	338.5036*	Oth wov fab of cont non-cellu yarns, ov 5 oz syd	Syd. Lb.
(614)	338.5037*	Oth comb & mixes of fil/spun yn, n/o 5 oz, for Neckties	Syd. Lb.
(611)	338.5038*	Wov Cheesecloth, spun yns wh Rayon/Acetate, n/o 5 oz syd	Syd. Lb.
(613)	[338.5039]	Plain-wv Poly/Cot. fab non-cont yn, yns dif col, n/o 5 oz	Syd. Lb.
(613)	338.5039*	Wov Cheesecloth of non-cellu spun yns, n/o 5 oz syd	Syd. Lb.
(614)	338.5040*	Woven Cheesecloth of misc MMF yarn mixes, n/o 5 oz syd	Syd. Lb.
(613)	[338.5041]	Plainweave Poly/Cot pr. fab non-cont yn, printed, n/o 5 oz	Syd. Lb.
(611)	338.5041*	Wov Poplin/Brdcl, spun yns wh Rayon/Acetate, n/o 5 oz syd	Syd. Lb.
(613)	[338.5042]	Twill-weave Poly/Cot. fab non-cont yn, not bl/col, n/o 5 oz	Syd. Lb.
(613)	338.5042*	Poplin/Broadcloth of spun non-cel/Cot yn, yn dif col, n/o 5	Syd. Lb.
(613)	[338.5043]	Oth Twill-weave Poly/Cot. fab non-cont yn, n/o 5 oz syd	Syd. Lb.
(613)	338.5043*	Oth Poplin/Broadcloth of non-cel/Cot spun yn, n/o 5 oz syd	Syd. Lb.
(613)	[338.5044]	Oth Poly/Cot. fab wov non-cont yn, not bl or col, n/o 5 oz	Syd. Lb.
(613)	338.5044*	Oth Poplin/Broadcloth of spun non-cel yns, n/o 5 oz syd	Syd. Lb.
(613)	[338.5045]	Oth woven Poly/Cot. fab non-cont yns, n/o 5 oz syd	Syd. Lb.
(614)	338.5045*	Wov Poplin/Broadcloth of misc MMF yarn mixes, n/o 5 oz syd	Syd. Lb.
(613)	[338.5046]	Oth fab woven of non-cont non cell/cot yn, n/o 5 oz syd	Syd. Lb.
(611)	338.5046*	Wov Printcloth, spun yns wh Rayon/Acetate, n/o 5 oz syd	Syd. Lb.
(611)	[338.5047]	Wov fab, wh Rayon/Acetate spun yn, bl, not col, ov 5 oz syd	Syd. Lb.
(613)	338.5047*	Printcloth of spun non-cel/Cot, yns dif cols, n/o 5 oz syd	Syd. Lb.
(611)	[338.5048]	Oth wov fab, who Rayon/Acetate spun yns, ov 5 oz per syd	Syd. Lb.
(613)	338.5048*	Oth wov Printcloth of spun non-cel/Cot yn, n/o 5 oz syd	Syd. Lb.
(613)	[338.5049]	Plainweave Polyester fab non-cont yn, not bl/col-ov 5 oz syd	Syd. Lb.
(613)	338.5049*	Wov Printcloth, 85% spun non-cell yns, n/o 5 oz syd	Syd. Lb.
(613)	[338.5050]	Other plainweave Polyester fab non-cont yn, ov 5 oz syd	Syd. Lb.
(613)	338.5050*	Oth wov Printcloth of spun non-cellu yns, n/o 5 oz syd	Syd. Lb.
(614)	338.5051*	Wov Printcloth of misc MMF yarn mixed, n/o 5 oz syd	Syd. Lb.
(611)	338.5052*	Wov Sheeting, spun yns wh Rayon/Acetate, n/o 5 oz syd	Syd. Lb.
(613)	[338.5053]	Twill-weave Polyester fab of non-cont yn, ov 5 oz syd	Syd. Lb.
(613)	338.5053*	Sheeting of spun non-cel/Cot, yns dif cols, n/o 5 oz syd	Syd. Lb.
(613)	[338.5054]	Other twill-weave Polyester fab of non-cont yn, ov 5 oz syd	Syd. Lb.
(613)	338.5054*	Wov Sheeting of spun non-cel/Cot yn, not ov 5 oz syd	Syd. Lb.
(613)	[338.5055]	Oth Polyester fab wov of non-cont yn, not bl or col-ov 5 oz	Syd. Lb.
(613)	338.5055*	Oth Sheeting of spun non-cellu yns, not over 5 oz syd	Syd. Lb.
(614)	338.5056*	Wov Sheeting of misc MMF yarn mixes, n/o 5 oz syd	Syd. Lb.
(611)	338.5057*	Wov Batistes, Lawns, Voiles, spun Rayon/Acetate, n/o 5 oz	Syd. Lb.
(613)	338.5058*	Wov Batiste/Lawn/Voile, sp non-cel/cot. yn dif col, n/o 5 oz	Syd. Lb.
(613)	[338.5059]	Oth Polyester fab wov of non-cont yarns, ov 5 oz syd	Syd. Lb.
(613)	338.5059*	Oth Batistes/Lawns/Voiles of spun non-cel/Cot, n/o 5 oz syd	Syd. Lb.
(613)	338.5060*	Oth Batistes/Lawns/Voiles of spun non-cellu yns, n/o 5 oz	Syd. Lb.
(613)	[338.5061]	Oth woven fab of non-cont, non cellu yarns, ov 5 oz syd	Syd. Lb.
(614)	338.5061*	Wov Batistes/Lawns/Voiles, misc MMF yn mixes, n/o 5 oz syd	Syd. Lb.
(611)	338.5062*	Wov Sateens/Twills, spun Rayon/Acetate yns, n/o 5 oz syd	Syd. Lb.
(613)	338.5063*	Wov Twills spun non-cellu yns, n/o 5 oz syd	Syd. Lb.
(611)	[338.5064]	Wov fab, spun yns 85% Rayon/Acetate, over 5 oz per syd	Syd. Lb.
(613)	338.5064*	Wov Sateens of spun non-cellu yns, n/o 5 oz syd	Syd. Lb.
(613)	[338.5065]	Wov fab, non-cont yn, 85% or more by wgt polyester, n/o 5 oz	Syd. Lb.
(614)	338.5065*	Wov Sateens/Twills of misc MMF yarn mixes, n/o 5 oz syd	Syd. Lb.
(613)	[338.5066]	Wov fab, non-cont yn, 85% or more by wgt acrylic, n/o 5 oz	Syd. Lb.
(611)	338.5066*	Wov. Oxford cl, spun Rayon/Acetate yns, n/o 5 oz per syd	Syd. Lb.
(613)	338.5067*	Wov Oxfordcloth of spun non-cell yn dif col n/o 5 oz syd	Syd. Lb.
(613)	338.5068*	Oth Oxford cloth of spun non-cellu yarn, n/o 5 oz syd	Syd. Lb.
(613)	[338.5069]*	Wov fab, other non-cont, non-cellu yarnsr, n/o 5 oz syd	Syd. Lb.
(614)	338.5069*	Wov Oxford cloth of Misc MMF mixes, n/o 5 oz syd	Syd. Lb.
(611)	338.5070*	Other wov fab of spun Rayon/Acetat yns, n/o 5 oz syd	Syd. Lb.
(613)	338.5071*	Oth wov fab of spun non-cellu yns, n/o 5 oz syd	Syd. Lb.
(614)	338.5072*	Oth woven fabrics of misc MMF yarn mixes, n/o 5 oz syd	Syd. Lb.
(611)	338.5073*	Wov Duck of spun Rayon/Acetate yns, over 5 oz per syd	Syd. Lb.
(613)	338.5074*	Wov Duck of spun non-cell yarns, over 5 oz syd	Syd. Lb.
(614)	338.5075*	Wov Duck of misc MMF yarn mixes, over 5 oz syd	Syd. Lb.
(611)	338.5076*	Wov Poplin/Broadcloth, spun Rayon/Acetate yns, ov 5 oz syd	Syd. Lb.
(613)	338.5077*	Wov Poplin/Broadcloth of spun non-cel/Cot yn, ov 5 oz syd	Syd. Lb.
(613)	338.5078*	Wov Poplin/Broadcloth of spun non-cellu yn, ov 5 oz syd	Syd. Lb.
(614)	338.5079*	Wov Poplin/Broadcloth of misc MMF yns, over 5 oz syd	Syd. Lb.
(611)	338.5080*	Wov Sheeting of spun Rayon/Acetate yns, over 5 oz per syd	Syd. Lb.
(613)	338.5081*	Wov Sheeting of spun non-cel/Cot yns, yn dif col, ov 5 oz	Syd. Lb.
(613)	338.5082*	Oth wov Sheeting of spun non-cel/Cot yns, ov 5 oz syd	Syd. Lb.
(613)	338.5083*	Wov Sheeting of spun non-celly yns, ov 5 oz syd	Syd. Lb.
(614)	338.5084*	Wov Sheeting of misc MMF yarn mixes, ov 5 oz syd	Syd. Lb.
(611)	338.5085*	Wov ¾ thread Twill, sp Rayon-Acetate yns dif col, ov 5 oz	Syd. Lb.
(613)	338.5086*	Wov ¾ thread Twill-yns dif col, spun non-cell, ov 5 oz	Syd. Lb.
(614)	338.5087*	Wov ¾ thread Twill of misc MMF yarn mixes, ov 5 oz syd	Syd. Lb.
(611)	338.5088*	Oth wov Twills of spun Rayon/Acetate, over 5 oz per syd	Syd. Lb.
(613)	338.5089*	Oth wov Twill of spun non-cel/Cot, yns dif col, ov 5 oz syd	Syd. Lb.
(613)	338.5090*	Oth wov Twill of spun non-cel/Cot yn, over 5 oz syd	Syd. Lb.
(613)	338.5091*	Oth wov Twill of spun non-cellu yarn, over 5 oz syd	Syd. Lb.
(614)	338.5092*	Wov other Twills of misc MMF yarn mixes, ov 5 oz syd	Syd. Lb.
(611)	338.5093*	Wov Sateens of spun Rayon/Acetate, over 5 oz per syd	Syd. Lb.
(613)	338.5094*	Wov Sateens of spun non-cellu yns, ov 5 oz syd	Syd. Lb.

CHANGES IN THE CORRELATION TO THE TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (TSUSA)—Continued

Category	TSUSA No.	Abbreviated description	Units of quantity
(614)	338.5095*	Wov Sateen of misc MMF yarn mixes, over 5 oz syd	Syd. Lb.
(611)	338.5096*	Other woven fab of spun Rayon/Acetate yns, ov 5 oz syd	Syd. Lb.
(613)	338.5097*	Other wov fab of spun non/cellu yns, ov 5 oz syd	Syd. Lb.
(614)	338.5098*	Other woven fabrics of misc MMF yarn mixes, ov 5 oz syd	Syd. Lb.
(659)	373.2010*	Knit silk Neckties, not orn, subj to textile restraints	Doz. Lb.
(659)	373.2210*	Silk Neckties, N.K., not orn, subject to textile restraints	Doz. Lb.
(337)	379.0412*	Knit cotton M&B Playsuits etc, orn 2 piece	Doz. Lb.
(337)	379.0414*	Other knit orn M&B Cotton Playsuits etc	Doz. Lb.
(337)	[379.0415]*	Knit cotton M&B playsuits etc	Doz. Lb.
(637)	[379.2830]*	M&B knit Playsuits, etc	Doz. Lb.
(637)	379.2832*	M&B knit orn 2-piece MMF Playsuits	Doz. Lb.
(637)	379.2834*	Other M&B orn MMF knit Playsuits	Doz. Lb.
(659)	379.2836*	M&B orn MMF Vests	Doz. Lb.
(659)	[379.2890]*	Other M&B knit apparel	Doz. Lb.
(659)	379.2892*	Other M&B knit apparel	Doz. Lb.
(659)	379.3332*	M&B orn Vests, N.K., not with attachments for sleeves	Doz. Lb.
(659)	[379.3390]	Other M&B MMF apparel, not knit	Doz. Lb.
(659)	379.3395*	Other M&B MMF apparel, not knit	Doz. Lb.
(337)	379.4127*	M&B knit cotton 2 piece Playsuits, not orn	Doz. Lb.
(337)	379.4129*	M&B other knit cotton Playsuits, not orn	Doz. Lb.
(337)	[379.4130]	Knit M&B cotton Playsuits etc	Doz. Lb.
(637)	379.9217*	M&B knit 2-piece MMF Playsuits, not orn	Doz. Lb.
(637)	379.9219*	Other M&B knit MMF Playsuits, not orn	Doz. Lb.
(637)	[379.9220]	M&B knit MMF Playsuits etc	Doz. Lb.
(659)	379.9637*	M&B MMF Vests, N.K., nor orn, no attach. for sleeves	Doz. Lb.
(659)	[379.9690]	Other M&B MMF apparel, not knit	Doz. Lb.
(659)	379.9692*	Other M&B MMF apparel, not knit	Doz. Lb.
(337)	383.0332*	WGI orn cotton knit 2-piece Playsuits	Doz. Lb.
(337)	383.0333*	Other WGI orn knit cotton Playsuits	Doz. Lb.
(342)	383.0334*	Other knit WGI cotton Skirts, orn	Doz. Lb.
(337)	[383.0335]	WGI knit cotton Playsuits	Doz. Lb.
(359)	383.0336*	WGI orn Kn Cot coats/jackets w/out full front openings	Doz. Lb.
(359)	383.0337*	Knit WGI cotton Jumpers, orn	Doz. Lb.
(359)	383.0338*	Knit WGI cotton Visors, orn	Doz. Lb.
(359)	383.0339*	Cot Inf sets (to 24 mos), orn, of knit construction	Doz. Lb.
(342)	[383.0340]	Other knit WGI cotton Skirts	Doz. Lb.
(359)	383.0341*	Cot Inf sets (to 24 mos), orn, knit Sweater, NK trouser	Doz. Lb.
(359)	383.0342*	Cot Orn Inf sets (to 24 mos), knit Shirt, Nk trouser etc	Doz. Lb.
(359)	[383.0343]	WGI Cot Knit Coats & jackets w/out full front openings	Doz. Lb.
(359)	383.0344*	Oth Orn Cot Inf sets (to age 24 mos), oth knit part	Doz. Lb.
(359)	[383.0345]	Knit WGI cotton Jumpers	Doz. Lb.
(359)	[383.0347]	Knit WGI cotton Visors	Doz. Lb.
(359)	[383.0350]	Knit cotton infants sets, up to and incl 24 months	Doz. Lb.
(359)	383.0351*	Knit WGI orn cotton vests	Doz. Lb.
(359)	[383.0396]	Other WGI cotton knit apparel	Doz. Lb.
(359)	383.0397*	Other WGI cotton knit apparel	Doz. Lb.
(359)	[383.0855]	Infants cotton sets, N.K., up to and incl 24 months	Doz. Lb.
(359)	383.0856*	Orn Cot Inf sets (to 24 mos), of not knit construction	Doz. Lb.
(359)	383.0857*	Orn Cot Inf sets (to 24 mos), Knit Sweater/NK trousers etc	Doz. Lb.
(359)	383.0858*	Orn Cot Inf sets (to 24 mos), Knit Shirt/NK trousers etc	Doz. Lb.
(359)	383.0859*	Orn Cot Inf sets (to 24 mos), KN Shirt/knit trousers etc	Doz. Lb.
(359)	383.0861*	Orn Cot Inf sets (to 24 mos), other not knit	Doz. Lb.
(637)	383.2032*	WGI knit orn 2-piece MMF Playsuits	Doz. Lb.
(637)	383.2034*	Other WGI knit orn MMF Playsuits	Doz. Lb.
(637)	[383.2035]	WGI knit MMF Playsuits etc	Doz. Lb.
(659)	[383.2042]	Knit infants' sets, up to 24 months, of MMF	Doz. Lb.
(648)	[383.2044]	Parts of knit WGI MMF Sweaters	Doz. Lb.
(635)	[383.2045]	Parts of WGI knit MMF Coats and jackets	Doz. Lb.
(639)	[383.2046]	Parts of WGI knit MMF Shirts etc.	Doz. Lb.
(648)	[383.2047]	Parts of WGI knit MMF Trousers, slacks & Shorts	Doz. Lb.
(659)	[383.2094]	Parts of WGI MMF knit Hats	Doz. Lb.
(659)	[383.2051]	Parts of other WGI MMF knit apparel	Doz. Lb.
(639)	[383.2052]	Knit WGI MMF Blouses/Shirts imp parts of sets	Doz. Lb.
(646)	[383.2054]	WGI knit MMF Sweaters imp as parts sets	Doz. Lb.
(635)	[383.2056]	Knit WGI MMF Coats and jackets, imp as part sets	Doz. Lb.
(648)	[383.2058]	WGI Knit MMF Trousers, sl and Shorts imp as pts of sets	Doz. Lb.
(659)	383.2059*	MMF orn Inf sets (to 24 mos), components knit	Doz. Lb.
(659)	383.2060*	MMF orn Inf sets (to 24 mos), Kn Sweater, NK Trousers etc	Doz. Lb.
(659)	383.2061*	MMF orn Inf sets (to 24 mos), Kn Shirt, NK Trousers etc	Doz. Lb.
(659)	383.2062*	MMF orn Inf sets (to 24 mos), other predominately knit	Doz. Lb.
(659)	383.2063*	WGI orn knit MMF Vests	Doz. Lb.
(646)	383.2064*	Parts of knit WGI MMF Sweaters, orn	Doz. Lb.
(635)	383.2065*	Parts of WGI knit MMF Coats and jackets, orn	Doz. Lb.
(639)	383.2066*	Parts of WGI knit MMF Shirts etc., orn	Doz. Lb.
(648)	383.2067*	Parts of WGI knit MMF Trousers, slacks & Shorts, orn	Doz. Lb.
(659)	383.2068*	Parts of WGI MMF knit Hats, orn	Doz. Lb.
(659)	383.2069*	Parts of other WGI MMF knit apparel, orn	Doz. Lb.
(639)	383.2070*	Knit WGI MMF Blouses/Shirts imp parts of sets, orn	Doz. Lb.
(646)	383.2071*	WGI knit MMF Sweaters imp as parts sets, orn	Doz. Lb.
(635)	383.2072*	Knit WGI MMF Coats and jackets, imp as part sets, orn	Doz. Lb.
(648)	383.2073*	WGI knit MMF orn Trousers, sl and Shorts imp as pts of sets	Doz. Lb.
(659)	[383.2090]	Other orn. knit WGI MMF apparel	Doz. Lb.
(659)	383.2092*	Other orn. knit WGI MMF apparel	Doz. Lb.
(659)	383.2346*	MMF Inf sets (to 24 mos), orn, not knit construction	Doz. Lb.
(659)	383.2347*	MMF Inf sets (to 24 mos), orn, Kn Sweater, NK Trousers etc	Doz. Lb.
(659)	383.2348*	MMF Inf sets (to 24 mos), orn, Kn Shirt, NK Trousers etc	Doz. Lb.
(659)	383.2349*	MMF orn Inf sets (to 24 mos), NK Shirt, Kn Trousers etc	Doz. Lb.
(659)	[383.2350]	Infants' sets, up to 24 months, N.K., of MMF	Doz. Lb.
(635)	[383.2351]	WGI MMF Vests, N.K., w/attachments for sleeves	Doz. Lb.
(659)	383.2352*	MMF other orn Inf sets (to 24 mos), predominately N.K.	Doz. Lb.
(635)	383.2361*	WGI MMF Vests, N.K., w/attachments for sleeves	Doz. Lb.

CHANGES IN THE CORRELATION TO THE TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (TSUSA)—Continued

Category	TSUSA No.	Abbreviated description	Units of quantity
(659)	383.2362*	WGI orn MMF Vests, N.K., no attachments for sleeves	Doz. Lb.
(659)	[383.2396]	Other orn. WGI MMF apparel, not knit	Doz. Lb.
(659)	383.2397*	Other orn. WGI MMF apparel, not knit	Doz. Lb.
(337)	383.3026*	WGI knit cotton 2-piece Playsuits, not orn	Doz. Lb.
(337)	383.3028*	Other WGI knit cotton Playsuits, not orn	Doz. Lb.
(337)	[383.3030]	Knit WGI cotton Playsuits etc	Doz. Lb.
(359)	383.3043*	Knit WGI cotton Vests, N/O, no attach fo sleeves	Doz. Lb.
(359)	[383.3060]	Knit cotton infants sets, up to 24 months	Doz. Lb.
(359)	[383.3096]	Other WGI cotton knit apparel	Doz. Lb.
(359)	383.3097*	Other WGI cotton knit apparel	Doz. Lb.
(635)	383.8113*	Other women's knit MMF Coats and jackets	Doz. Lb.
(635)	[383.8116]	Other women's knit MMF Coats and jackets	Doz. Lb.
(637)	383.8642*	WGI knit 2-piece MMF Playsuits, not orn	Doz. Lb.
(637)	383.8644*	Other WGI knit MMF Playsuits, nor orn	Doz. Lb.
(637)	[383.8645]	WGI knit MMF Playsuits etc	Doz. Lb.
(659)	[383.8650]	Knit infants' sets, up 24 months, of MMF	Doz. Lb.
(659)	383.8651*	MMF Inf sets (to 24 mos) not orn, of knit construction	Doz. Lb.
(659)	383.8652*	MMF Inf sets (to 24 mos) not orn, Kn Sweater, NK Trousers	Doz. Lb.
(659)	383.8653*	MMF Inf sets (to 24 mos) not orn, Kn Shirt, NK Trouser etc	Doz. Lb.
(659)	383.8654*	MMF Inf sets (to 24 mos) not orn, other primarily knit	Doz. Lb.
(659)	383.8677*	HGI MMF Vests, N.K, not orn, no attachment for sleeves	Doz. Lb.
(659)	[383.8695]	Other knit WGI MMF apparel, not orn	Doz. Lb.
(659)	383.8696*	Other knit WGI MMF apparel, not orn	Doz. Lb.
(658)	383.9253*	WGI MMF Swinsuits and other Swimwear, N.K	Doz. Lb.
(659)	383.9254*	WGI MMF Judo, Karate, etc, uniforms not knit	Doz. Lb.
(659)	[383.9255]	WGI MMF Swimsuits and other Swimwear, N.K	Doz. Lb.
(659)	383.9256*	MMF Inf sets (to 24 mos) not orn, components N.K	Doz. Lb.
(659)	383.9257*	MMF Inf sets (to 24 mos) not orn, Kn Sweater, NK Trouser	Doz. Lb.
(659)	383.9258*	MMF Inf sets (to 24 mos) not orn, Kn Shirt, NK Trouser etc	Doz. Lb.
(659)	383.9259*	MMF Inf sets (to 24 mos) not orn, primarily N.K	Doz. Lb.
(659)	[383.9260]	WGI MMF Judo, Karate, etc, uniforms, not knit	Doz. Lb.
(659)	[383.9261]	Infants' sets, not knit, up to 24 months, of MMF	Doz. Lb.
(635)	383.9262]	WGI MMF Vests, N.K., w/attachments for sleeves	Doz. Lb.
(648)	[383.9263]	Parts of WGI MMF Trousers, slacks & Shorts, N.K	Doz. Lb.
(641)	[383.9264]	Parts WGI MMF Blouses, N.K	Doz. Lb.
(659)	383.9265*	Other MMF Inf sets (to 24 mos), N.K., not orn	Doz. Lb.
(635)	383.9266*	WGI MMF Vests, N.K., w/attachments for sleeves	Doz. Lb.
(635)	[383.9267]	Parts of WGI MMF Coats & jackets, N.K	Doz. Lb.
(659)	[383.9268]	Parts of WGI MMF Hats, N.K., not orn	Doz. Lb.
(659)	[383.9269]	Parts of other WGI MMF apparel, N.K	Doz. Lb.
(641)	[383.9270]	WGI MMM Blouses & Shirts, N.K., imp part sets	Doz. Lb.
(659)	383.9271*	Other WGI MMF Vests, N.K., not orn	Doz. Lb.
(648)	383.9272*	Parts of WGI MMF Trousers, slacks & Shorts, N.K	Doz. Lb.
(635)	[383.9273]	WGI MMF Coats/jackets, N.K., imp parts of sets	Doz. Lb.
(641)	383.9274*	Parts WGI MMF Blousers, N.K	Doz. Lb.
(635)	383.9275*	Parts of WGI MMF Coats & jackets, N.K	Doz. Lb.
(648)	[383.9276]	WGI MMF Trousers, slacks and Shorts, NK, imp part sets	Doz. Lb.
(659)	383.9277*	Parts of WGI MMF Hats, N.K., not orn	Doz. Lb.
(659)	383.9278*	Parts of other WGI MMF apparel, N.K	Doz. Lb.
(641)	383.9279*	WGI MMM Blouses & Shirts, N.K., imp part sets	Doz. Lb.
(635)	383.9280*	WGI MMF Coats/jackets, N.K., imp parts or sets	Doz. Lb.
(648)	383.9281*	WGI MMF Trousers, slacks and Shorts, NK, imp part sets	Doz. Lb.
(659)	[383.9296]	Other WGI MMF apparel, not knit	Doz. Lb.
(659)	383.9297*	Other WGI MMF apparel, not knit	Doz. Lb.

KEY: [ ] TSUSA items effective through March 31, 1985.
* TSUSA items effective April 1, 1985.

[FR Doc. 85-12588 Filed 5-24-85; 8:45 am]
BILLING CODE 3510-DR-M

COMMODITY FUTURES TRADING COMMISSION

Chicago Board of Trade and MidAmerica Commodity Exchange: Proposed Amendments Relating to the Oats Futures Contracts

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rule changes.

SUMMARY: The Chicago Board of Trade ("CBT") and the MidAmerica Commodity Exchange ("MCE") have submitted proposals to amend their oats futures contracts. The proposed amendments would revise the price differentials applicable to the delivery of oats on both the CBT and MCE oats contracts. The Commodity Futures Trading Commission ("Commission") has determined that the proposals are of major economic significance and that, accordingly, publication of these proposals is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments should be received on or before June 27, 1985.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. Reference should be made to CBT and MCE oats futures contracts.

FOR FURTHER INFORMATION CONTACT: Fred Linse, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, (202) 254-7303.

SUPPLEMENTARY INFORMATION: The CBT and MCE are proposing to increase the premiums and discounts applicable to the various non-par grades and weights of oats deliverable on the oast contracts. The current and proposed differentials for grades and weights of oats deliverable on the contracts are printed below:

Deliverable grade	Current differentials	Proposed differentials
#1 Extra Heavy Oats	+2¢	+7¢
#2 Extra Heavy Oats	+1¢	+4¢
#1 Heavy Oats	+1¢	+3¢
#2 Heavy Oats	(1)	(1)
#1 Oats	(1)	(1)
#2 Oats (36 lbs. minimum)	-1¢	-3¢

Deliverable grade	Current differentials	Proposed differentials
#2 Oats (36 lbs. minimum)	-2¢	-6¢

[1] Par.

The CBT states that the current differentials for its oats futures contract should be readjusted to reflect current cash market prices for oats. The CBT believes that the amended oats delivery grade differentials would enhance the hedging and pricing utility of the oast futures contract for producers, processors, and users of oats. The MCE cites similar reasons for increasing the differentials for oats deliverable on its contract and also emphasizes the importance of maintaining the compatibility of its contract with the CBT contract in connection with inter-market spreading.

The new differentials would become effective after Commission approval for all contract months subsequently listed by the exchanges for trading, but would not be applicable to currently listed months.

In accordandce with section 5a(12) of the Commodity Exchange Act, 7 U.S.C. 7a(12) (1982), the Commission has determined that the proposals submitted by the CBT and MCE concerning their oats futures contracts are of major economic significance. Accordingly, the CBT and MCE proposals will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. Copies can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254-6314.

Other materials submitted by the CBT and MCE in support of the proposed differentials may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1984)). Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance Staff of the Office of the Secrearist at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the proposed amendments should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, by June 27, 1985.

Issued in Washington, D.C., on May 21, 1985.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 85-12662 Filed 5-24-85; 8:45 am]

BILLING CODE 6351-01-M

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of information collection.

SUMMARY: The Commodity Futures Trading Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511.

ADDRESS: Persons wishing to comment on this information collection should contact Katie Lewin, Office of Management and Budget, Room 3235, NEOB, Washington, D.C. 20503, (202) 395-7231. Copies of the submission are available from Joseph Salazar, Agency Clearance Officer, (202) 254-9735.

Title: Futures Commission Merchant Report On Dealer Options.

Form No. CFTC 145.

Action: Extension.

Respondents: Businesses (excluding small businesses).

Estimated Annual Burden: 48.

Estimated Number of Respondents: 12.

Issued in Washington, D.C., on May 21, 1985.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 85-12661 Filed 5-24-85; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board 1985 Summer Study Panel on Armor Anti-Armor Competition

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board 1985 Summer Study Panel on Armor Anti-Armor Competition will meet in closed session on 11-12 July 1985 in Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Panel will evaluate the current state of the armor anti-armor competition.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this DSB Panel meeting, concerns matters listed in 5 U.S.C. 552b(c)(1)) (1982), and that accordingly this meeting will be closed to the public.

Dated: May 21, 1985.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 85-12704 Filed 5-24-85; 8:45 am]

BILLING CODE 3810-01-M

Defense Advisory Committee on Women in the Services; Meeting

AGENCY: DOD.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Pub. L. 92-463, notice is hereby given of a forthcoming meeting of the Executive Committee of the Defense Advisory Committee on Women in the Services (DACOWITS). The purpose of the meeting is to review the Recommendations, Requests for Information, Statements of Appreciation, and Continuing Concerns made by the Committee at the 1985 Spring Meeting, discuss current issues relevant to women in the Services, and plan the program for the Semi-Annual Meeting scheduled for October 20-24, 1985 in Santa Maria, California. All meeting sessions will be open to the public.

DATE: June 27, 1985, 9:30-11:30 a.m.; 1:45-4:30 p.m. and June 28, 9:30-11:30 a.m.

ADDRESS: OSD Conference Room 1E801 #7, The Pentagon, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Major Marilla J. Brown, Executive Secretary, DACOWITS, OASD (Manpower, Installations and Logistics), The Pentagon, Room 3D769, Washington, D.C. 20301-4000; telephone (202) 697-2122.

SUPPLEMENTARY INFORMATION: Persons desiring to: (1) Attend the Executive Committee Meeting or (2) make oral presentations or submit written statements for consideration at the Meeting must notify the point of contact listed above no later than June 4, 1985.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

May 22, 1985.

[FR Doc. 85-12749 Filed 5-24-85; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Army Science Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Avisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Monday and Tuesday, June 17 and 18, 1985.

Time: 0830–1700 hours (Open).

Place: U.S. Army Combined Arms Center, Ft. Leavenworth, Kansas.

Agenda: The Army Science Board 1985 Summer Study on Training and Training Technology—Applications for AirLand Battle and Future Concepts will meet in a Plenary Session to receive background briefings on the concepts of AirLand Battle and the integration of combined forces. This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039/7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 85–12750 Filed 5–24–85; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Date of Meeting: Tuesday, June 18, 1985.

Time of meeting: 0830–1700 hours (Closed).

Place: 24th Infantry Division (Mechanized), Ft. Stewart, Georgia.

Agenda:The Mobilization Subpanel of the Army Science Board 1985 Summer Study on Manpower Implications of Logistic Support for AirLand Battle will meet to receive background briefings and hear future plans for logistically manning and supporting the battalion task force. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 85–12751 Filed 5–24–85; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Dates of meeting: Wednseday & Thursday, June 19 & 20, 1985.

Time: 0830–1700 hours (Open).

Place: III Corps, Fort Hood, Texas.

Agenda: Both the Doctrine and Training Integration Subpanel and the Training Technology Subpanel of the 1985 Army Science Board Summer Study on Training and Training Technology—Applications for AirLand Battle and Future Concepts will meet to evaluate how doctrine and training strategies are integrated into the training plans & programs at the unit level. This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039/7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 85–12752 Filed 5–24–85; 8:45 am]

BILLING CODE 3710–02–M

Army Science Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Dates of meeting: Wednesday & Thursday, June 19 & 20, 1985.

Time and places: 0800–1700 hours on June 19 (Open) at Fort Bliss, Texas; 0800–1300 hours on June 20 (Open) at TRASANA (TRADOC (U.S. Army Training and Doctrine Command) Systems Analysis Activity), White Sands Missile Range, New Mexico.

Agenda: The Training Effectiveness Subpanel of the 1985 Army Science Board Summer Study on Training and Training Technology—Applications for AirLand Battle and Future Concepts will meet at Fort Bliss to evaluate how doctrine and training strategies are integrated into the training plans & programs at the unit level. The subpanel will meet at TRASANA to determine how cost effectiveness of training subsystems related to hardware-oriented total systems is assessed. This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039/7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 85–12753 Filed 5–24–85; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Dates of meeting: Monday, June 24,—Tuesday, July 2, 1985.

Times of meeting: 0830–1700 hours each day (Closed).

Places: HQS, U.S. Forces—Korea/8th U.S. Army, Republic of Korea; U.S. Army Western Command (WESTCOM), Honolulu, Hawaii.

Agenda: The Army Science Board Korea/WESTCOM Ad Hoc Subgroup will meet for classified discussions of science and technology issues facing the CINCUNC in Korea and for classified overview/orientation briefings and demonstrations regarding the WESTCOM mission and its relationship to the U.S. Pacific Command (PACOM); for example, expanded relations program, air defense, command and control, role/missions of 25th Infantry Divison, and Pacific area update. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 85–12755 Filed 5–24–85; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Dates of meeting: Monday & Tuesday, June 24 & 25, 1985.

Times of meeting: 0830–1700 hours each day (Closed).

Place: The Pentagon, Washington, D.C.

Agenda: The Army Science Board Ad Hoc Subgroup on Chemical/Biological Warfare Intelligence will meet for classified discussions on chemical warfare/biological warfare arms control and for preparation of the study report. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be

contacted for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 85–12754 Filed 5–24–85; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Dates of meeting: Tuesday, June 25, 1985.

Times of meeting: 0830–1700 hours (Closed).

Place: Johns Hopkins University Applied Physics Laboratory, Laurel, Maryland.

Agenda: The Army Science Board Ad Hoc Subgroup on U.S. Army Atomospheric Sciences Laboratory (ASL) Effectiveness Review will meet to complete the final report on this study effort which seeks to provide an independent evaluation of this lab to ensure its continued excellence. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 85–12756 Filed 5–24–85; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Dates of meeting: Tuesday and Wednesday, June 25 and 26, 1985.

Times of meeting: 0900–1630 hours both day (Closed).

Places: Science Applications International Corporation, McLean, Virginia.

Agenda: The Army Science Board Ad Hoc Subgroup on Detection of Soviet Theater Nuclear Forces will meet for briefings by intelligence agencies on Soviet nuclear force operations, to include force structure, planning procedures, command and control, and strengths and weaknesses. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 85–12757 Filed 5–24–85; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Dates of meeting: Wednesday & Thursday, June 26 & 27, 1985 (and Friday, June 28, 1985 if needed).

Times of meeting: 0830–1700 hours (Closed).

Places: The Pentagon, Washington, D.C.

Agenda: The Army Science Board 1985 Summer Study on Manpower Implications of Logistic Support for AirLand Battle will meet to refine and integrate data obtained in previous fact-finding meetings. The entire group will meet in a Plenary Session on June 26. The three subpanels (Active/U.S. Army Reserve, Army National Guard, and Mobilization Base/Industrial Perspective Subpanels) will meet individually on June 27. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 85–12758 Filed 5–24–85; 8:45 am]

BILLING CODE 3710–08–M

Availability of the Draft Supplemental Environmental Impact Statement for Production of QL (a Binary Munition Chemical Component)

AGENCY: Department of the Army, DOD.

ACTION: Notice of Availability of the Draft Supplemental Environmental Impact Statement for Production of QL. QL is a nonlethal chemical component used in binary munitions.

SUMMARY: 1. The original Notice of Intent (January 18, 1985, 50 FR 2706) provided notice that the Army, pursuant to the National Environmental Policy Act (NEPA), and implementing regulations, was preparing a Supplemental Environmental Impact Statement (SEIS) analyzing alternatives, and their potential environmental impacts, for obtaining QL one of the nonlethal precursor chemicals to be used in the binary chemical munitions.

2. The draft SEIS for the production of QL is available for comment. A copy of the draft SEIS, can be obtained from, and comments forwarded to Mr. Duggan, by calling commercial area code 301–671–4286 or by writing Commander, USA Chemical Research and Development Center Attn: SMCCR–MUP–P, Aberdeen Proving Ground, MD 21010. The period of time for providing comments for consideration in preparing the final SEIS will end 45 days from the time the Environmental Protection Agency publishes its Notice of Availability in the Federal Register.

Lewis D. Walker,

Deputy for Environment, Safety and Occupational Health OASA (I&L).

[FR Doc. 85–12719 Filed 5–24–85; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Secretary's Discretionary Program: Planning Grants To Develop Teacher Incentive Structures

AGENCY: Department of Education.

ACTION: Notice of annual funding priority and required activities for fiscal year 1985.

SUMMARY: The Secretary announces an annual funding priority for planning grants to be funded under the Secretary's Discretionary Program. The Secretary is reserving funds for the development of plans for teacher incentive structures designed to improve the quality of elementary and secondary education.

EFFECTIVE DATE: The priority and other requirements established in this notice will take effect either 45 days after publication in the Federal Register or later if the Congress takes certain adjournments. If you want to know the effective date of this priority and requirements write or call the Department of Education's contact person.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas E. Enderlein, Office of the Secretary, U.S. Department of Education, 400 Maryland Avenue SW., Room 4181, Washington, D.C. 20202. Telephone: (202) 472–1762.

SUPPLEMENTARY INFORMATION:

Program Information

The Education Consolidation and Improvement Act of 1981 (ECIA) (20 U.S.C. 3851) was enacted as Title V of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35). The ECIA has

two principal purposes: Chapter 1 provides financial assistance to State and local educational agencies to meet the special needs of educationally deprived children, and Chapter 2 consolidates 28 elementary and secondary level education grant programs funded in Fiscal Year 1981 into a single authorization of grants to States for the same purposes contained in the consolidated programs.

Section 583(a) of Chapter 2 authorizes the Secretary to carry out directly, or through grants or contracts, programs and projects that: (1) Provide a national source for gathering and disseminating information on the effectiveness of programs designed to meet the special educational needs of educationally deprived children and others served by ECIA, and for assessing the needs of such individuals; (2) carry out research and demonstrations related to the purposes of the ECIA; (3) are designed to improve the training of teachers and other instructional personnel needed to carry out the purposes of the ECIA; or (4) are designed to assist State and local educational agencies in the implementation of programs under the ECIA.

The Secretary has determined that certain unmet national needs exist within the scope of the Discretionary Program. More specifically, the National Commission on Excellence in Education has identified improving the quality of elementary and secondary level teaching through incentives as an urgent national educational need. The Report of the Commission recommended that salaries for the teaching profession be professionally competitive, market-sensitive, and performance based. The Report further recommended that school officials and teachers cooperate to develop career ladders for teachers which distinguish among the beginning instructor, the experienced teacher, and the master teacher.

Summary of Comments and Responses

A "Notice of Proposed Annual Funding Priority and Required Activities for Fiscal Year 1985" was published in the **Federal Register** on February 4, 1985 (50 FR 4882), describing the proposed annual funding priority and required activities for the Secretary's Discretionary Program, planning grants to develop teacher incentive structures.

No comments were received in response to this notice.

Funding Priority

To address the need to improve the quality of elementary and secondary teaching and to stimulate interest in this area, the Secretary is reserving funds under the Discretionary Program for the development of teacher incentive structures. These planning grants are intended to assist in the development of plans for teacher incentive structures to improve the quality of elementary and secondary level teaching by influencing teacher recruitment and teacher personnel systems, and by making the teaching profession more attractive to a wider range of talented individuals.

Funds for this competition are reserved only for the costs of developing teacher incentive plans, not for the cost of implementing such plans. Furthermore, pursuant to 34 CFR 760.10(b), funds provided for these planning grants may not be used as general operating revenue to meet local needs of any applicant. For these reasons, funds awarded under this competition may not be used to pay salaries, merit pay increases or bonuses for classroom teachers.

Activities

The Secretary requires certain activities as a condition of funding under this priority. The teacher incentive structure to be planned would have to combine a well-specified teacher evaluation system, which may include peer judgment arrangements, with one or more of the following elements:

—Pay differentials based on a merit pay system, that is, one in which limited numbers of teachers could qualify for the highest payment.
—A career ladder structure that clearly specifies successive labels or teaching positions analogous to the system used in higher education.
—Nonsalary forms of recognition for superior teaching or contribution to the improvement of the overall instructional program.

The Secretary also requires that the incentive structure be developed by, or in conjunction with, a *local school district*, and be suitable to be used as a model for implementation by other States or by other local school districts. In other words, the grants are intended to assist in the development of incentive structure plans to be implemented in a particular local school district or districts. The incentive structure being planned must include staff development and in-service training and provide for collecting and reporting results and for making information available to other school districts. The Secretary encourages the submission of applications that will affect or have the potential to affect large numbers of elementary and secondary students and teachers in a single setting. Planning of the incentive structures must be conducted with the participation of appropriate interested local groups. The Secretary encourages activities aimed at achieving wide support for the final plan from high-level school officials and commitment from the various interested local groups, including support from the private sector.

The Secretary also encourages collaboration with institutions of higher education in the planning and development of teacher incentive structures. An appropriate university for such collaboration would be one, for example, that pays its faculty on a merit basis and that uses peer review, faculty participation, and objective criteria in evaluating faculty members. The purpose of this collaboration would be to enable the applicant/planner to learn from the university's experience with career ladders as well as to promote interest, on the part of the university, in the need for teacher incentive structures at the elementary and secondary level.

An example of a career ladder plan is one that would enable an outstanding teacher to progress along a career ladder that has clearly specified levels of teaching positions. Each successive level or position would be distinguished by increasing teacher responsibilities and opportunities while the teacher would be maintaining superior classroom performance. Analogous to the system used in higher education, progress from one level to the next would be based on an evaluation system that includes peer review, teacher participation, and objective criteria.

The Secretary requires that the plan developed be submitted to the U.S. Department of Education for dissemination upon request. Funding for projects under these grants would be limited to the cost of developing a workable plan.

(20 U.S.C. 3851)

(Catalog of Federal Domestic Assistance Number 84.122, Secretary's Discretionary Program)

Dated: May 22, 1985.

William J. Bennett,

Secretary of Education.

[FR Doc. 85-12725 Filed 5-24-85; 8:45 am]

BILLING CODE 4000-01-M

Training Personnel for the Education of the Handicapped

AGENCY: Department of Education.

ACTION: Notice of final funding priority.

SUMMARY: The Secretary issues an annual priority for the Training Personnel for the Education of the

Handicapped—Preparation of Regular Educators.

EFFECTIVE DATE: This final funding priority will take effect either 45 days after publication in the **Federal Register** or later if Congress takes certain adjournments. If you want to know the effective date of this priority, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Dr. Norman Howe, Division of Personnel Preparation, Special Education Programs, Department of Education, 400 Maryland Avenue, SW. (Switzer Building), Room 3511—M/S 2313, Washington, D.C. 20202. Telephone (202) 732–1071.

SUPPLEMENTARY INFORMATION: The Training Personnel for the Education of the Handicapped program, authorized by sections 631, 632, and 634 of Part D of the Education of the Handicapped Act, provides financial assistance through grants to State educational agencies, institutions of higher education, and other appropriate nonprofit agencies or organizations to increase the quantity and improve the quality of personnel available to educate handicapped children and youth. This notice of Final Funding Priority, however, addresses awards for Fiscal Year 1985 only under section 632 of the Act. In accordance with the Education Department General Administrative Regulations (EDGAR) at 34 CFR 75.105(b)(2) and 75.105(c)(3)(i), and subject to available funds, the Secretary will give an absolute preference to each application under this priority which provides satisfactory assurance that the recipient will use the funds made available for these projects to conduct the activities in paragraph 2 below.

1. *Eligible applicants.* In accordance with section 632 of the Act, awards under this priority are limited to State educational agencies.

2. *Activities.* The Preparation of Regular Educators priority supports projects for training regular educators to assist with the identification and delivery of special education and related services to children with learning disabilities. The objective of these projects is to develop personnel training programs for regular educators which will facilitate the State-wide delivery of comprehensive educational services to learning disabled children and youth. Projects must provide regular education teachers with innovative approaches to referral, assessment, placement, service delivery, and placement review processes for learning disabled children and youth. Further, such training will enhance regular educators' ability to maintain in the regular classroom those children who are in need of educational assistance but who are not classified as handicapped. The content and scope of the training models is limited only by a focus on State-wide efforts to meet the needs of the learning disabled population and by emphasis on innovative approaches to serving this population through improved training of regular educators.

This final funding priority is necessary to allow for the implementation of the OSERS' initiative on regular education. This initiative addresses the need to train regular education personnel in the skills, techniques, and strategies that will decrease the number of children with mild learning problems who are referred to special education programs, and improve the quality of education for learning disabled children and youth in the least restrictive environment.

Summary of Comments and Responses

A notice of proposal annual funding priority was published in the **Federal Register** on February 28, 1985 (50 FR 8182) for Training Personnel for the Education of the Handicapped program. Thirteen comments were received. These comments are summarized below:

Comment: Several commenters recommended that this priority be withdrawn or substantially revised because the notice:

(a) Does not specify that the delivery of special education services in the regular classroom will be under the direct supervision of certified teachers of learning disabled children;

(b) Does not make clear the delivery or related services to children with learning disabilities placed in a regular classroom;

(c) Does not make clear that assessment will continue to be conducted by certified personnel;

(d) Does not make clear that the least restrictive environment for learning disabled children and youth may be other than the regular classroom.

Response: No change has been made. While the issues raised are critical in the education of children and youth with learning disabilities generally, they are not relevant to the specific need addressed by this priority. Regardless of many uncertainties identified by commenters in the field of learning disabilities, the fact remains that many of these children are receiving much of their education in regular classrooms. Both State Directors of Special Education and The Association for Children with Learning Disabilities have recently suggested that training of regular education personnel to assist special educators is a high priority.

Comment: Several commenters complained that the notice does not make clear that children with learning disabilities should continue to be identified as handicapped.

Response: No change has been made. The identification of children as handicapped or non-handicapped is governed by Part B of the Education of the Handicapped Act, 20 U.S.C. 1401, 1411–1420, and the implementing regulations at 34 CFR Part 300. This funding priority has no effect on the status of learning disabled children as handicapped.

Comment: One commenter noted that the priority does not make clear that training for regular classroom teachers should be given by certified teachers of the learning disabled with recent classroom experience with learning disabled students.

Response: No change has been made. The priority requires specific kinds of training for regular educators. Defining in detail the qualifications of those who should conduct the training of regular educators was deemed unnecessary in light of these specific requirements.

Comment: Several commenters were concerned that the implication is made in the notice that the "least restrictive environment" for every learning disabled child is the regular classroom. For some children, the regular classroom is the most restrictive environment and the statement in the notice addressing this subject should be reworded to reflect this.

Response: No change has been made. While this priority addresses those children who are in regular classrooms, it does not imply any preference for all children to be in regular classrooms.

Comment: One commenter recommended that the funding priority be broadened in scope to include all mildly handicapped students.

Response: No change has been made. It would be beneficial to train regular educators broadly in all areas of special education. However, the greatest numbers of children receiving services in the regular classroom are those with learning disabilities. At this time, the Secretary believes that it is appropriate to concentrate the limited resources of the program on the learning disabled.

Comment: One commenter did not agree that the State educational agency is the best target for eligible applicants. The commenter noted that institutions of higher education have been involved in developmental attempts to design such a service/delivery model and suggested

that the institutions of higher education also be eligible applicants.

Response: No change has been made. State educational agencies may work cooperatively with institutions of higher education under this program. Education of both regular and handicapped children is a State function with the State educational agency delegated the primary responsibility for statewide planning for training rather than any institutions of higher education within the State.

(20 U.S.C. 1432)

(Catalog of Federal Domestic Assistance No. 84.029; Training Personnel for the Education of the Handicapped)

Dated: May 22, 1985.

William J. Bennett,

Secretary of Education.

[FR Doc. 85-12774 Filed 5-24-85; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Voluntary Agreement and Plan of Action To Implement the International Energy Program; Meetings

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(i)), the following meeting notices are provided:

I. A meeting of the Industry Supply Advisory Group (ISAG) to the International Energy Agency (IEA) will be held on June 4 and 5, 1985, beginning at 9:00 a.m. on June 4. The meeting will convene at Stouffer's Inn on the Square, Public Square, Cleveland, Ohio, and will take place there, at the offices of Standard Oil Company of Ohio, Midland Building, Cleveland, Ohio, and at the Westwood Club, 22625 Detroit Road, Rocky River, Ohio. The purpose of the meeting is to permit attendance by representatives of U.S. company members of ISAG at an ISAG Training Session. The agenda for the meeting is as follows:

1. Introductory remarks.
2. Information available as of time of convening of ISAG.
3. Allocation calculations.
4. Voluntary offers.
5. Overviews of role of National Emergency Sharing Organizations and Reporting Companies.
6. Discussion groups.
7. Question and answer period.
8. Computer competence exercise.
9. Group meetings of the Country Supply Group, the Supply Coordination Group and the Supply Analysis Group.
10. IEA Secretariat security issues.
11. Antitrust issues.
12. General information on Paris stay.
13. Wrap-up.

It is anticipated that for agenda items 6, 8 and 9, ISAG will break up into as many as three subgroups.

II. A meeting of the IEA Group of Reporting Companies will be held on June 6, 1985, at the Royal York Hotel, 100 Front Street West, Toronto, Ontario, beginning at 9:30 a.m. This will be a briefing for personnel of IEA Reporting Companies and their affiliates, and for others who will participate in the Fifth IEA Allocation Systems Test (AST-5). The agenda for the meeting is under the control of the IEA. It is expected that the following draft agenda will be followed:

1. Opening remarks.
2. Emergency sharing system.
3. Background of AST-5.
4. AST-5 Test Guide:
(a) Objectives and scope;
(b) timetable;
(c) Organization and responsibilities:

—Secretariat;
—ISAG;
—RC/RCA;
—NESO;

(d) Data;
(e) Voluntary offer process;
(f) Non-implementation of some voluntary offers.

5. National programs
6. Appraisal reports.
7. Question and answer session.
8. Closing remarks.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, the ISAG meeting is open only to representatives of members of the ISAG, their counsel, employees of the IEA, employees of the Departments of Energy, Justice, State, and the Federal Trade Commission and the General Accounting Office, representatives of the Commission of the European Communities, and invitees of the IAB or the IEA. The IEA Reporting Company Group meeting is open only to representatives of the IEA Reporting Companies, their counsel, employees of the IEA, employees of the Departments of Energy, Justice, State, and the Federal Trade Commission and the General Accounting Office, representatives of committees of Congress, representatives of the Commission of the European Communities, and invitees of the IEA.

Issued in Washington, D.C., May 22, 1985.

J. Michael Farrell,

General Counsel.

[FR Doc. 85-12843 Filed 5-24-85; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Agency Forms Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of submission of request for clearance to the Office of Management and Budget.

SUMMARY: The Department of Energy (DOE) has submitted the following collections to the Office of Management and Budget (OMB) for approval under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The listing does not contain information collection requirements contained in regulations which are to be submitted under 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by DOE.

Each entry contains the following information and is listed by the DOE sponsoring office: (1) The form number; (2) Form title; (3) Type of request, e.g., new, revision, or extension; (4) Frequency of collection; (5) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (6) Type of respondent; (7) An estimate of the number of respondents; (8) Annual respondent burden, i.e., an estimate of the total number of hours needed to fill out the form; and (9) A brief abstract describing the proposed collection.

DATE: Last Notice published Thurday, April 25, 1985 (50 FR 16343).

FOR FURTHER INFORMATION CONTACT:

John Gross, Director, Data Collection Services Division (DCSD), Energy Information Administration, M.S. 1H-023, Forrestal Building, 1000 Independence Ave., SW., Washington, DC 20585, (202) 252-2308

Vartkes Broussalian, Department of Energy Desk Officer, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395-7313

SUPPLEMENTARY INFORMATION: Copies of proposed collections and supporting documents may be obtained from Mr. Gross. Comments and questions about the items on this list should be directed to the OMB reviewer for the appropriate agency as shown above.

If you anticipate commenting on a form, but find that time to prepare these comments will prevent you from submitting comments promptly, you should advise the OMB reviewer of your intent as early as possible.

Issued in Washington, D.C., May 20, 1985.

Yvonne M. Bishop,

Director, Statistical Standards Energy Information Administration.

DOE FORMS UNDER REVIEW BY OMB

From No. (1)	Form title (2)	Type of request (3)	Response frequency (4)	Response obligation (5)	Respondent description (6)	Estimated number of respondents (7)	Annual respondent burden (8)	Abstract (9)
FERC-511	Application for Transfer of Electric License.	Extension	On occasion	Mandatory	Hydroelectric Licensees.	10	400	To carry out the requirements of Part 1, Sections 4(e) and 8 of the Federal Power Act. This section directs that a hydroelectric license may be transferred upon application executed jointly by the parties of the proposed transfer and in agreement with the FERC.
FERC-539	Gas Pipeline Certificate; Import/Export Related.	Extension	On occasion	Required to obtain or retain a benefit.	Importers/exporters of natural gas.	44	84,480	Section 3 of the Natural Gas Act requires importers and exporters of natural gas to receive authorization. Under the DOE Act this authority rests with the Secretary of Energy and can be delegated in part to the Commission.
FERC-570	Recordkeeping Requirements for Certain Sales of Natural Gas.	Extension	Recordkeeping.	Mandatory	Natural gas sellers	5,000	500	Books, records, and contracts must be retained by the seller for a period of three years to enable the Commission staff to audit: (1) if sales of gas under Section 105 and 106(b) of the Natural Gas Policy Act of 1978 (NGPA) are regulated or deregulated and (2) to audit for compliance with the maximum ceiling price permitted for regulated sales under Section 105, 106 (b) and 109.
FERC-579	State Implementation of PURPA 210—Cogeneration and Small Power Production.	Revision	On occasion	Voluntary	Cogeneration and small power production facilities.	2,577	1,392	The FERC is proposing to collect information from cogeneration and small power production facilities. The collection will allow the FERC to assess the effectiveness of its rules encouraging such facilities. The collection will also provide information useful for environmental monitoring and assessment of regulatory compliance.

[FR Doc. 85-12760 Filed 5-24-85; 8:45 am]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 2392-001, et al.]

Applications Filed With the Commission; Hydroelectric Applications (Georgia-Pacific Corp. et al.)

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

1 a. Type of Application: Amendment of License.

b. Project No.: 2392-001.

c. Date Filed: April 17, 1985.

d. Applicant: Georgia-Pacific Corporation.

e. Name of Project: Gilman Project.

f. Location: On the Connecticut River in Essex County, Vermont and Coos County, New Hampshire.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: David G. Blanchette, Georgia-Pacific Corporation, Whitefield Paper Division, Gilman, Vermont 05904.

i. Comment Date: June 27, 1985.

j. Description of Project: The project as licensed consists of: (1) The Gilman Dam, (a) a concrete gravity structure approximately 170 feet long and 29 feet high and, (b) a rock-filled timber crib dam approximately 108 feet long and 40 feet high, each with a crest elevation of 828.3 feet USGS; (2) 5-foot-high flashboards bringing the normal water surface elevation to 833.3 feet USGS; (3) a hydraulically operated crest gate 18 feet high and 27 feet wide; (4) a reservoir having an area of 130 acres, a storage capacity of 705 acre-feet, and a normal water surface elevation of 833.3 feet USGS; (5) a powerhouse containing four turbine-generator units, one rated at 990 kW and three rated at 800 kW each for a total rated capacity of 3,390 kW; (6) an existing 200-foot-long transmission line; and (7) appurtenant facilities. Project energy would be sold to the New England Power Company.

The Applicant proposes to amend the license by increasing the total installed capacity from 3,390 kW to 4,650 kW by replacing the existing 990 kW unit with a new 2,250 kW unit and increasing the average annual generation from 17,500,000 kWh to 28,000,000 kWh.

k. This notice also consists of the following standard paragraphs: B, C & D1.

2 a. Type of Application: Transfer of License.

b. Project No.: P-2861-010.

c. Date Filed: April 18, 1985.

d. Applicant: Pontook Hydro Partners, Ltd. and New Hampshire Water Resources Board.

e. Name of Project: Pontook Project.

f. Location: On the Androscoggin River in the Town of Dummer, Coos County, New Hampshire.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: William J. Madden Jr., Bishop, Liberman, Cook, Purcell & Reynold, 1200 Seventeenth Street NW., Washington, DC 20036.

i. Comment Date: June 13, 1985.

j. Description of Proposed Transfer: On March 26, 1981, a license was issued to Robert W. Shaw to construct, operate, and maintain the Pontook Project No. 2861. On August 23, 1983, the license was transferred to Pontook Hydro Partner, Ltd (Licensee). The Licensee intends to add the New Hampshire Water Resources Board to the license in order that the New Hampshire Water Resources Board can maintain

ownership of the Dam and surrounding property. For that reason the Licensee and the New Hampshire Water Resources Board have filed a request to transfer the licensee.to Pontook Hydro Partner, Ltd and the New Hampshire Water Resources Board (Transferees)

The Licensee has complied with the terms and conditions of the license. The Transferees have agreed to accept all the terms and conditions of the license and the requirements of the Federal Power Act and to be bound by it as if it were the original licensees.

k. This notice also consists of the following standard paragraphs: B and C.

3 a. Type of Application: Major License (Over 5MW).

b. Project No: 3533–001.

c. Date Filed: January 30, 1984.

d. Applicant: Public Utility District No. 1 of Clallam County, Washington.

e. Name of Project: Lyre River.

f. Location: On the Lyre River in Clallam County, Washington.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Michael McInnes, P.O. Box 1117, Port Angeles, WA 98362.

i. Comment Date: July 18, 1985.

j. Description of Project: The proposed run-of-river project would consist of: (1) An 84-foot-long, 20-foot-high rock-filled concrete-faced overflow-type diversion structure having crest elevation 492.2 feet MSL and having a gated sluiceway; (2) a small impoundment; (3) a gated intake structure along the right (east) bank; (4) a 5,576-foot-long, 10-foot-diameter horseshoe-shaped tunnel; (5) a surge tank; (6) a 440-foot-long, 7-foot-diameter steel penstock; (7) a powerhouse containing two generating units each rated at 4,310-kW operated at a head of 305 feet and at a flow of 200 cfs; (8) a 2.0-mile-long, 13.8-kV underground transmission line; (9) a 13.8/69-kV transformer; and (10) a 0.4-mile-long access road to the powerhouse and a 0.2-mile-long access road to the surge tank.

The application was filed durig the term of Applicant's preliminary permit. Applicant estimates that the average annual generation would be 30,300-MWh and that the project construction cost would be $12,400,000. Project energy would be exchanged with Bonneville Power Administration or would be used within Applicant's system.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C and D2.

4 a. Type of Application: Major License.

b. Project No: 4017–002.

c. Date Filed: October 1, 1984.

d. Applicant: The City of Pittsburgh, Pennsylvania.

e. Name of Project: Allegheny River Lock and Dam No. 2.

f. Location: On the Allegheny River in Allegheny County, Pennsylvania.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Paul J. McDermott, Director, Department of Engineering and Construction, 301 City-County Building, Pittsburgh, PA 15219.

i. Comment Date: July 18, 1985.

j. Description of Project: The proposed project would utilize the existing U.S. Army Corps of Engineers' Allegheny River Lock and Dam No. 2 and would consist of: (1) A headrace channel, about 800 feet in length and with a bottom width of 85 feet, will be dredged; (2) a new powerhouse containing an installed generating capacity of 11.6 MW, (2 units of 5.8 MW each); (3) a tailrace channel, approximately 425 feet in length and with a bottom width of 100 feet, will be dredged; (4) a proposed 60-foot-long, 23-kV transmission line; (5) a proposed 20-foot-wide, 1,700-foot-long access road; and (6) appurtenant facilities. The Applicant estimates the average annual energy generation will be 61.225 MWh. The power to be produced by this plant will be used, by the City of Pittsburgh, in one of two ways. Some power will be used directly to operate nearby City facilities such as the water plant (1 mile) and the maintenance shop—asphalt plant (2 miles). The balance will be sold to the Duquesne Light Company.

k. This notice also consists of the following standard paragraphs: A3, A9, B, and C.

5 a. Type of Application: Preliminary Permit.

b. Project No: 9067–000.

c. Date Filed: March 28, 1985.

d. Applicant: DDK&L Corporation.

e. Name of Project: Warm Springs Creek.

f. Location: Roseburg, Oregon, in Douglas County, on Warm Springs Creek.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Donald A. Beets, c/o DDK&L Corporation, P.O. Box 1338, Umatilla, OR 97882.

i. Comment Date: July 18, 1985

k. Description of Project: The proposed project would consist of: (1) An 8-foot-high, 100-foot-long diversion dam at elevation 3825 feet; (2) a 9180-foot-long pipeline; (3) a powerhouse containing a generating unit with a rated capacity of 3,000 kW, and (4) a 200-foot-long transmission line. The average annual energy production is estimated to be 12,036 MWh.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 36 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license application at a cost of $3,000. No new roads would be constructed or drilling conducted during the feasibility study.

l. Purpose of Project: The proposed power is to be sold to Pacific Power and Light Company.

m. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, and D2.

6 a. Type of Application: Minor License.

b. Project No.: 6904–001.

c. Date Filed: October 31, 1984.

d. Applicant: Batten Kill Hydro Associates.

e. Name of Project: Upper Greenwich.

f. Location: Batten Kill River in Washington County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Robert E. Hedden, Batten Kill Hydro Associates, 410 Severn Avenue, Suite 409, Annapolis, Maryland 21403.

i. Comment Date: July 22, 1985.

j. Description of Project: The proposed project would consist of: (1) An existing 11.5-foot-high, 150-foot-long concrete dam; (2) new 2-foot-high flashboards; (3) a reservoir with a normal water surface area of 20 acres, a storage capacity of 90 acre-feet, and a normal water surface elevation of 334 feet MSL; (4) two existing intake gates; (5) an existing 200-foot-long earth power canal; (6) one siphon-type generating unit located on the right side of dam with a capacity of 210 kW; (7) a new powerhouse containing two generating units with a capacity of 287 kW each for a total installed capacity, including the siphon unit, of 784 kW; (8) an existing transmission line directly over the site and (9) appurtenant facilities. The Applicant estimates that the average annual generation would be 2,750,000 kWh. The existing dam is owned by the Niagara Mohawk Power Corporation.

k. Purpose of Project: Project power would be sold to the Niagara Mohawk Power Corporation.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

7 a. Type of Application: Minor License.

b. Project No.: 8686–000.

c. Date Filed: October 24, 1984.

d. Applicant: Northeast Hydrodevelopment Corporation.

e. Name of Project: Pine Island Pond.

f. Location: Great Cohas Brook in Hillsborough County, New Hampshire.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Normand E. Hebert, President, Northeast Hydrodevelopment Corporation, 6 Able Street, Hudson, New Hampshire 03051.

i. Comment Date: July 19, 1985.

j. Description of Project: The proposed project would consist of: (1) An existing 17-foot-high, 80-foot-long stone and masonry gravity dam with; (2) 2.5-foot-high flashboards; (3) an existing reservoir with a normal water surface area of 37 acres and, a storage capacity of 150 acre-feet at surface elevation 151.1 feet MSL; (4) a new reinforced concrete intake structure; (5) a new 6-foot-diameter, 260-foot-long steel penstock; (6) a new submerged powerhouse containing three generating units with a capacity of 96 kW each for a total installed capacity of 288 kW; (7) a new 100-foot-long, 2-foot-deep tailrace; (8) a new 100-foot-long transmission line; and (9) appurtenant facilities. The Applicant estimates that the average annual generation would be 850,000 kWh. The existing dam is owned by Mr. Edward J. Socha, 32 Myrtle Street, Manchester, New Hampshire 03104.

k. Purpose of Project: Project power would be sold to the Public Service Company of New Hampshire.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

8 a. Type of Application: Minor License (Constructed).

b. Project No.: 8866–000.

c. Date Filed: January 7, 1985.

d. Applicant: Lynn E. Stevenson.

e. Name of Project: Project No. 2.

f. Location: On an unnamed stream in Gooding County, Idaho near the town of Bliss.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Don A. Olowinski, Hawley Troxell Ennis and Hawley, One Capital Center, P.O. Box 1617, Boise, ID 83701.

i. Comment Date: July 22, 1985.

j. Description of Project: The existing project consist of: (1) A 15-inch-diameter, 300-foot-long concrete pipe; (2) a concrete transition box; (3) and 18-inch-diameter, 400-foot-long steel penstock; (4) a powerhouse containing a single generating unit with a rated capacity of 70 kW operating under a head of 135 feet; (5) a tailrace discharging project flows into the Snake River and; (6) a 135-foot-long, 34.5-kV underground transmission line tying into an Idaho Power Comapny line. The estimated average annual generation is 491,400 kWh. The estimated cost of the project was $25,000.

k. Purpose of Project: The operation of the project is due to a surplus of water diverted from the Applicant's fish ponds. Power produced from this surplus of water was originally for the Applicant's personal use. The power is now being sold to Idaho Power Company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

9 a. Type of Application: Exemption (5MW or less).

b. Project No.: 8739–000.

c. Date Filed: November 26, 1984.

d. Applicant: Wayne J. Summers.

e. Name of Project: Spring Valley T Power Project.

f. Location: On unnamed tributary to Campbell Creek in Placer County, California.

g. Filed Pursuant to: Section 408 of Energy Security Act of 1980 (16 U.S.C. 2705 and 2708 *as amended).*

h. Contact Person: Mr. Dale Stewart, Construction Project Controls, Inc., #25 Meadowlake Drive, RR 3, Champaign, IL 61821.

i. Comment Date: June 28, 1985.

j. Description of Project: The proposed project would consist of: (1) The Applicant's existing 39-foot-high, 350-foot-long earthfill dam with crest elevation at 120 feet m.s.l., that forms; (2) a 75-acre-foot reservoir; (3) a 6-inch-diameter, 18,500-foot-long penstock to be connected to the existing 12-inch-diameter outlet at the foot of the dam; (4) a powerhouse to contain a single generating unit with a rated capacity of 50 kW and operate under a head of 150 feet; (5) a 4,500-foot-long, 12-kV transmission line to connect the project with an existing Pacific Gas and Electric Company line east of the powerhouse.

k. Purpose of Project: The estimated annual generation of 240,000 kWh will be sold to a local utility.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C & D3a.

10 a. Type of Application: Exemption (5MW or less).

b. Project No.: 5756–005.

c. Date Filed: November 15, 1984.

d. Applicant: Mega Hydro, Inc.

e. Name of Project: Rock Creek Power Project.

f. Location: On Rock Creek, within Sierra National Forest, in Madera County, California.

g. Filed Pursuant to: Section 408 of Energy Security Act of 1980 (16 U.S.C. 2705 and 2708 *as amended).*

h. Contact Person: Mr. Fred G. Castagna, 2576 Hartnell Avenue, Redding, CA 96002.

i. Comment Date: June 27, 1985.

j. Description of Project: The proposed project would consist of: (1) An intake structure within the south bank of the creek at elevation 4,099 feet; (2) a 36-inch-diameter, 3,104-foot-long pipe; (3) a 36-inch-diameter, 2,144-foot-long penstock; (4) a powerhouse to contain a single generating unit with a rated capacity of 1,750 kW to operate under a head of 699 feet; and (5) a 12-kV, 5,100-foot-long transmission line would connect the project with an existing Southern California Edison Company's (SCE) transmission line north of the project.

k. Purpose of Project: The Project's estimated annual energy of 7,800,000 kWh will be sold to SCE.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C & D3a.

m. This application has been accepted for filing as of December 14, 1981, the submittal date of the Applicant's originally accepted exemption application pursuant to Eagle Power Company, 28 FERC ¶ 61,061 issued July 18, 1984.

n. Exemption for Small Hydroelectric Power Project under 5MW Capacity—Any qualified license or conduit exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license or conduit exemption application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such an application. Any qualified small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing small hydroelectric exemption application or a notice of intent to file such an appliation. Submission of a timely notice of intent allows an interested person to file the competing license, conduit exemption, or small hydroelectric exemption application no later than 60 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

11 a. Type of Application: Exemption (5MW or less).

b. Project No: 7981–000.

c. Date Filed: January 12, 1984 as amended on August 23, and November 5, 1984.

d. Applicant: Merrill and Mary Lou Bates and Dan and Debbie Bates.

e. Name of Project: Deer Creek Project.

f. Location: On Deer Creek in Tulare County, California, near the town of California Hot Springs.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705 and 2708 *as amended*).

h. Contact Person: Dan and Debbie Bates, P.O. Box 6, California Hot Springs, California 93217; and Merrill and Mary Lou Bates, Route 4, Box 214, Porterville, CA 93257.

i. Comment Date: June 27, 1985.

j. Description of Project: The proposed project would consist of: (1) A 4.0-foot-high existing diversion structure at elevation 2,751 feet; (2) a 2,200-foot-long existing conduit; (3) a 24-inch-diameter, 2,800-foot-long penstock; (4) a powerhouse containing a single generating unit with a rated capacity of 450 kW, operating under a head of 270 feet; and (5) a 12-kV, 250-foot-long transmission line connecting the project with an existing Southern California Edison Company's (SCE) transmission line northeast of the powerhouse.

k. Purpose of Project: The estimated 1.06 million kWh of project energy would be sold to SCE.

l. This notice also consists of the following standard paragraphs: A9, B, C, and D3a.

m. This amended application has been accepted for filing as of January 12, 1984, the submittal date of the Applicant's originally accepted exemption application pursuant to the Snowbird, Inc., et. al, 28 FERC ¶ 61,062, issued July 18, 1984.

n. Exemption for Small Hydroelectric Power Project under 5 MW Capacity—Any qualified license or conduit exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license or conduit exemption application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such an application.

Any qualified small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license, conduit exemption, or small hydroelectric exemption application no later than 60 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

12 a. Type of Application: Preliminary Permit.

b. Project No: 8793-000.

c. Date Filed: December 12, 1984.

d. Applicant: Daniel A. Baldwin.

e. Name of Project: Baldwin.

f. Location: In the Nez Perce National Forest, on Silver Creek, a tributary to the South Fork Clearwater River, in Idaho County, Idaho.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)-825(r).

h. Contact Person: C. C. Warnick, P.E., Consulting Engineer, 3197 Lundquist Lane, Moscow, ID 83843.

i. Comment Date: July 19, 1985.

j. Description of Project: Proposed project would consist of: (1) A 10-foot-high diversion dam at elevation 3,700 feet; (2) a 7,000-foot-long, 1.8-foot-diameter penstock; (3) a powerhouse containing generating units with a capacity 1,156 kW and an average annual generation of 5,912 MWh; and (4) less than 200 feet of transmission line.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 24 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license application at a cost of $127,000. No new roads would be constructed or drilling conducted during the feasibility study.

k. Purpose of Project: Project power would be used by a investor-owned utility.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C and D2.

13 a. Type of Application: Major License (over 5 MW).

b. Project No.: P-4675-002.

c. Date Filed: August 2, 1984.

d. Applicant: Washington County, Borough of Charleroi, and Pennsylvania Renewable Resources, Inc.

e. Name of Project: Monongahela Lock and Dam #4 Project.

f. Location: On the Monongahela River in the Borough of Charleroi, Washington, Fayette and Westmoreland Counties, Pennsylvania.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Edward Curland, Pennsylvania Renewable Resources, Inc., 1700 Broadway, Suite 2501, New York, NY 10019.

i. Comment Date: July 18, 1985.

j. Description of Project: The proposed project would utilize the existing U.S. Army Corps of Engineers' Monongahela River Lock and Dam No. 4 and reservoir and would consist of: (1) An existing intake structure; (2) an existing 1300-foot-long headrace canal, (3) a new powerhouse containing 2 generating units having a total installed capacity of 8.25 MW; (4) a new 100-foot-long tailrace; (5) a new 3000-foot-long 13.8-kV transmission line; (6) appurtenant facilities. The Applicant estimates the average annual generation would be 34.68 GWh.

k. Purpose of Project: All project energy generated would be sold to the West Penn Power Company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, and C.

14 a. Type of Application: Minor License (Constructed).

b. Project No. 8865-000.

c. Date Filed: January 7, 1985.

d. Applicant: Lynn E. Stevenson.

e. Name of Project: Project No. 1.

f. Location: On an unnamed stream in Gooding County, Idaho near the town of Bliss.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Don A. Olowinski, Hawley Troxell Ennis and Hawley, One Capital Center, P.O. Box 1617, Boise, ID 83701.

i. Comment Date: July 22, 1985.

j. Description of Project: The existing project consist of: (1) A 14-inch-diameter, 580-foot-long steel penstock; (2) a powerhouse containing a single generating unit with a rated capacity of 75 kW operating under a head of 130 feet; (3) a tailrace discharging into the Snake River and; (4) a .75-mile-long, 34.5-kV transmission line interconnecting to an Idaho Power Company line. The estimated average annual generation is 644,280 kWh. The estimated cost of the project was $25,000.

k. Purpose of Project: The operation of the project is due to a surplus of water diverted from the Applicant's fish ponds. Power produced from this surplus of water was originally for the applicant's personal use. The power is now being sold to Idaho Power Company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

15 a. Type of Application: Minor License.

b. Project No. 8627-000.

c. Date Filed: September 28, 1984.

d. Applicant: City of Ithaca.

e. Name of Project: Van Natta.

f. Location: Six Mile Creek in Tompkins County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. John C. Gutenberger, Mayor, City of Ithaca, City Hall, 108 East Green Street, Ithaca, New York 14850.

i. Comment Date: July 18, 1985.

j. Description of Project: The proposed project would consist of: (1) An existing 12-foot-high, 142-foot-long reinforced concrete gravity dam; (2) an existing reservoir with a normal water surface area of 2.3 acres a storage capacity of 8.6 acre-feet and a normal water surface elevation of 502.5 feet msl. (3) an existing intake structure; (4) a new 58-foot-long, 8-foot-diameter brick-lined, concrete-capped penstock; (5) a new 67-foot-long, 4-foot-diameter steel penstock; (6) an existing powerhouse containing one new generating unit with a capacity of 400 kW; (7) a new transmission line, 110 feet long; and (8) appurtenant facilities. The Applicant estimates that the average annual generation would be 1,425,000 kWh. The existing dam is owned by the City of Ithaca.

k. Purpose of Project: Project power would be sold to the New York State Electric and Gas Company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

16 a. Type of Application: Preliminary Permit.

b. Project No: 9066–000.

c. Date Filed: March 28, 1985.

d. Applicant: The Burlington Energy Development Associates.

e. Name of Project: Conway Dam.

f. Location: South River in Franklin County, Massachusetts.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. John R. Anderson and Mr. Joseph D. Brostmeyer, Burlington Energy Development Associates, 64 Blanchard Road, Burlington, Massachusetts 01803.

i. Comment Date: July 18, 1985.

j. Description of Project: The proposed project would consist of: (1) An existing 75-foot-high, 180-foot-long concrete gravity dam; (2) a reservoir with a surface area of 3.8 acres, a storage capacity of 15 acre-feet, and a normal water surface elevation of 298 feet m.s.l.; (3) an existing concrete intake structure; (4) a new 3-foot-diameter, 200-foot-long wooden penstock; (5) a new powerhouse containing two generating units with a capacity of 175 kW each for a total installed capacity of 350 kW; (6) an existing 12-foot-wide, 25-foot-long loose rock tailrace; (7) a new transmission line, 2,400 feet long; and (8) appurtenant facilities. The Applicant estimates the average annual generation would be 1,500,000 kWh. The existing dam is owned by the Commonwealth of Massachusetts.

k. Purpose of Project: Project power would be sold to the Western Massachusetts Electric Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C & D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 18 months during which time it would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $23,000.

17 a. Type of Application: Conduit Exemption.

b. Project No: 9030–000.

c. Date Filed: March 19, 1985.

d. Applicant: Levan Town Corporation.

e. Name of Project: Cobble Rock Hydro Project.

f. Location: Creek Canyon in Juab County, Utah.

g. Filed Pursuant to: Section 30 of the Federal Power Act.

h. Contact Person: Golden Mangelson, Mayor, Levan Town, Levan, UT 84639.

i. Comment Date: July 1, 1985.

j. Description of Project: An existing culinary water supply system consists of an intake structure, at elevation 6,880 ft. m.s.l., from Cobble Rock Spring; a 33,000-foot-long, 8-inch-diameter iron pipeline to a chlorination station, at elevation 5,524 ft. m.s.l.; and a treated water storage tank supplying the town culinary water distribution pipe system. The proposed project would consist of a powerhouse located on the 8-inch pipeline, immediately upstream from the chlorination station, and containing a turbine-generator unit having a total rated capacity of 85-kW. A 2.4-kV transmission line about 1¼ miles long would transmit project power. The Applicant estimates that the average annual energy output would be 666,908 kWh.

k. Purpose of Project: Project energy would be utilized by the Applicant.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C and D3b.

18 a. Type of Application: Minor License.

b. Project No: 9044–000.

c. Date Filed: March 19, 1985.

d. Applicant: Fredrick Earl Pickering.

e. Name of Project: Bigg's Creek.

f. Location: On Bigg's Creek in Clark County, Washington.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Fredrick Pickering, 21546 N.E. Lucia Falls Road, Yacolt, WA 98675.

i. Comment Date: July 18, 1985.

j. Description of Project: The proposed project would consist of: (1) A 4-foot-square, 4-foot-high concrete overflow intake structure at elevation 685 feet; (2) an 8-inch-diameter, 1,800-foot-long penstock; (3) a wood powerhouse at elevation 440 feet containing a generating unit rated at 15 kW and producing an average annual output of 50,000 kWh; and (4) a 400-foot-long transmission line. The estimated cost of the project as of March 1985 is $15,000.

k. Purpose of Project: Project output would be sold to the Clark County P.U.D.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C and D1.

Competing Applications

A1. Exemption for Small Hydroelectric Power Project under 5MW Capacity—Any qualified license or conduit exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license or conduit exemption application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such an application. Any qualified small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license, conduit exemption, or small hydroelectric exemption application no later than 120 days after the specfied comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

A2. Exemption for Small Hydroelectric Power Project under 5MW Capacity—Any qualified license or conduit exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license or conduit exemption application that proposes to develop at

least 7.5 megawatts in that project, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license or conduit exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit and small hydroelectric exemption will not be accepted in response to this notice.

A3. License or Conduit Exemption—Any qualified license, conduit exemption, or small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license, conduit exemption, or small hydroelectric exemption application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license, conduit exemption, or small hydroelectric exemption application no later than 120 days after the specified comment date for the particular application. Application for preliminary permit will not be accepted in response to this notice.

This provision is subject to the following exception: if an application described in this notice was filed by the preliminary permittee during the term of the permit, a small hydroelectric exemption application may be filed by the permittee only (license and conduit exemption applications are not affected by this restriction).

A4. License or Conduit Exemption—Public notice of the filing of the initial license, small hydroelectric exemption or conduit exemption application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, any competing application for license, conduit exemption, small hydroelectric exemption, or preliminary permit, or notices of intent to file competing applications, must be filed in response to and in compliance with the public notice of the initial license, small hydroelectric exemption or conduit exemption application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit: Existing Dam or Natural Water Feature Project—Anyone desiring to file a competing application for preliminary permit for a proposed project at an existing dam or natural water feature project, must submit the competing application to the Commission on or before 30 days after the specified comment date for the particular application (see 18 CFR 4.30 to 4.33 (1982)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

A competing preliminary permit application must conform with 18 CFR 4.33(a) and (d).

A6. Preliminary Permit: No Existing Dam—Anyone desiring to file a competing application for preliminary permit for a proposed project where no dam exists or where there are proposed major modifications, must submit to the Commission on or before the specified comment date for the particular application, the competing application itself, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 60 days after the specified comment date for the particular application.

A competing preliminary permit application must conform with 18 CFR 4.33 (a) and (d).

A7. Preliminary Permit—Except as provided in the following paragraph, any qualified license, conduit exemption, or small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license, conduit exemption, or small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent to file a license, conduit exemption, or small hydroelectric exemption application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

In addition, any qualified license or conduit exemption applicant desiring to file a competing application may file the subject application until: (1) A preliminary permit with which the subject license or conduit exemption application would compete is issued, or (2) the earliest specified comment date for any license, conduit exemption, or small hydroelectric exemption application with which the subject license or conduit exemption application would compete; whichever occurs first.

A competing license application must conform with 18 CFR 4.33 (a) and (d).

A8. Preliminary Permit—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit applications on notices of intent. Any competing preliminary permit application, or notice of intent to file a competing preliminary permit application, must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing preliminary permit applications or notices of intent to file a preliminary permit may be filed in response to this notice.

Any qualified small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent to file a small hydroelectric exemption application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

In addition, any qualified license or conduit exemption applicant desiring to file a competing application may file the subject application until: (1) a preliminary permit with which the subject license or conduit exemption application would compete is issued, or (2) the earliest specified comment date for any license, conduit exemption, or small hydroelectric exemption application with which the subject license or conduit exemption application would compete; whichever occurs first.

A competing license application must conform with 18 CFR 4.33 (a) and (d).

A9. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a license, small hydroelectric exemption, or conduit exemption application, and be served on the applicant(s) named in this public notice.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENT," "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST" or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Project Management Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. *Agency Comments*—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the applicant. If an agency does not file comments with the Commission within the time set for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D2. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. *Agency Comments*—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in section 408 of the Energy Security Act of 1980, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. *Agency Comments*—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 30 of the Federal Power Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated May 22, 1985.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–12747 Filed 5–24–85; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. TC85–16–000 and TC85–16–001]

Colorado Interstate Gas Co.; Notice of Tariff Filing

May 22, 1985.

Take notice that on May 9, 1985, as amended May 17, 1985, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, tendered for filing in Docket No. TC85–16–000 and TC85–16–001 pursuant to Part 154 of the Commission's Regulations, Alternate Sixth Revised Sheet Nos. 45 to its FERC Gas Tariff, Original Volume No. 1, to become effective on June 17, 1985. Copies of these filings are on file with the Commission and are open for public inspection.

CIG states that Sub-section 12.7 has been added to Section 12 of the General Terms and Conditions of the tariff to clarify CIG's position on liability of gas delivery curtailment and reads as follows:

> Seller may be required to curtail deliveries during the term of the Service Agreements or other sales agreements including Direct Gas Sales Agreements. If curtailment is exercised, Seller will not be liable for damages caused by any exercise of curtailment procedures as described within the tariff except to the extent that such curtailment of deliveries is shown to be the result of negligence or misfeasance by Seller.

Any person desiring to be heard or to make any protest with reference to said tariff sheet filing should on or before June 5, 1985, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–12737 Filed 5–24–85; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA85-3-51-002]

Great Lakes Gas Transmission Co.; Notice of Compliance Filing

May 21, 1985.

Taken notice that on May 10, 1985, Great Lakes Gas Transmission Company (Great Lakes) tendered for filing Fifty-Second Revised Sheet No. 57 to its FERC Gas Tariff, First Revised Volume No. 1 in compliance with the Federal Energy Regulatory Commission's (Commission) letter order issued April 25, 1985. The proposed effective date for the sheet is May 10, 1985. According to § 381.103(b)(2)(iii) of the Commission's regulations (18 CFR 381.103(b)(2)(iii)), the date of filing is the date on which the Commission receives the appropriate filing fee, which in the instant case was not until May 13, 1985.

Great Lakes states this tariff sheet is identical to the Alternate Fiftieth Revised Sheet No. 57 accepted by the Commission's order of April 25, 1985, except for conforming changes to reflect the intervening surcharge rate which was filed with the Commission on May 9, 1985 in compliance with the Commission's order in Docket No. TA85-4-51-000, as well as a tariff sheet numbering change and the effective date.

Great Lakes indicates that copies of this filing were served on all its customers and the Public Service Commissions of Minnesota, Wisconsin and Michigan.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 31, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 85-12738 Filed 5-24-85; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER85-401-000]

Jersey Central Power and Light Co.; Order Accepting for Filing and Suspending Rates, Noting Interventions, Ordering Summary Disposition, and Establishing Hearing and Price Squeeze Procedures

Issued May 23, 1985.

Before Commissioners: Raymond J. O'Connor, Chairman; A. G. Sousa, Oliver G. Richard III and Charles G. Stalon.

On March 29, 1985, Jersey Central Power and Light Company (JCP&L) submitted for filing a proposed increase in rates for: (1) full-requirements service to the municipalities of Butler, Lavallette, Madison, Pemberton, and Seaside Heights, New Jersey (Boroughs); and (2) supplemental power and energy and wheeling service to Allegheny Electric Cooperative, Inc. (Allegheny).[1]

The principal reason given for the proposed increase is to reflect in JCP&L's rates the costs associated with a long-term purchase of power from Pennsylvania Power & Light Company (PP&L).[2] Service under the agreement with PP&L commenced on April 17, 1985. At the time JCP&L submitted its proposed rates for filing, it was awaiting approval by the New Jersey Board of Public Utilities (Board) of the contract with PP&L. As a result, JCP&L filed two alternate rates. Phase A, which reflects the purchase of power from PP&L, would increase jurisdictional revenues by $4.4 million (25.5%) based upon the test year ending December 31, 1985. JCP&L requests a May 30, 1985 effective date for its Phase A rates. Phase B, which did not reflect the PP&L purchase, would have increased revenues by $1.8 million based upon a calendar 1985 test year. The utility requested an effective date of May 31, 1985 for its Phase B rates. On April 15, 1985, the Board approved JCP&L's contract with PP&L. As a result, the utility requested on April 18, 1985 that its Phase B rates be withdrawn.

Notice of JCP&L's filing was published in the Federal Register,[3] with comments due on or before April 22, 1985. Timely protests and motions to intervene were filed by Allegheny [4] and the Boroughs. On April 22, 1985, the Borough of Seaside Heights separately filed with the Commission a resolution opposing the JCP&L rate increase.

Allegheny and the Boroughs request a hearing and a five month suspension of JCP&L's proposed rates. In support, they raise various cost of service issues.[5]

In addition, the Boroughs request summary disposition as to the issue of interest synchronization. The Boroughs also request that the Commission investigate the 22½ month outage of the utility's Oyster Creek Nuclear Plant to determine if any expenses associated with the maintenance and refurbishment of the unit or the cost of replacement power purchased during this period were imprudently incurred. Finally, the Boroughs and Allegheny request that the Commission initiate price squeeze procedures.

On April 26, 1985, JCP&L filed an answer to the motions to intervene. While JCP&L does not oppose intervention by Allegheny and the Boroughs, the company denies the substantive allegations contained in their pleadings. With respect to the Boroughs' request for an investigation of the Oyster Creek plant outage, JCP&L notes that the matter is currently being investigated by the New Jersey Board; as a result, the utility alleges, the Boroughs' request is premature.

Discussion

Pursuant to Rule 214 of the Commission's rules of practice and procedure (18 CFR 385.214), the timely motions to intervene filed by Allegheny and the Boroughs serve to make them parties to this proceeding.

The Commission agrees with the Boroughs that JCP&L failed to properly synchronize interest expense in its income tax calculation with the weighted cost of long-term debt from its capital structure.[6] Thus, we shall grant the Boroughs' motion for summary disposition on this issue. In addition, we shall order summary disposition with respect to JCP&L's inclusion in rate base of nuclear radwaste systems as qualifying pollution control construction work in progress (CWIP). The

[1] *See* Attachment for rate schedule designations.

[2] The PP&L purchase is a 15-year agreement wherein JCP&L will purchase 945 MW of system capacity from PP&L.

[3] 50 FR 14422 (1985).

[4] Allegheny originally filed its pleading on behalf of itself and the Borough of Butler. On April 25, 1985, Allegheny amended its motion to exclude the Borough of Butler from its pleading.

[5] These issues include: (1) Improper calculation of the rate increase; (2) improper allocation of capitalized taxes and pensions, and general plant and related expenses; (3) excessive cash working capital and rate of return; (4) inappropriate annualization of the PP&L purchase in the Period II estimates; (5) improper calculation of synchronized interest tax deductions; (6) inclusion of a tax adjustment factor in the fuel clause, and (7) changes in proposed terms and conditions of partial requirements service.

[6] *See, Gulf States Utilities Company*, 20 FERC ¶ 61,039 (1982).

Commission has previously disallowed CWIP treatment for such systems. *See, Louisiana Power & Light Company*, Opinion 110, 14 FERC ¶ 61,075, (1981). Because the effect of these two adjustments on the utility's cost-of-service is relatively small we shall not direct JCP&L to file revised rates at this time. We shall require JCP&L, however, to reflect these rulings in any compliance cost of service filed at the conclusion of these proceedings.

The Commission believes that the remaining questions raised by the intervenors present issues that are properly resolved during an evidentiary hearing. With respect to the Oyster Creek outage, we shall leave the question of how best to proceed with the matter to the parties and presiding administrative law judge.

Our preliminary review of JCP&L's filing and the pleadings indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept JCP&L's rates for filing and suspend them as ordered below.

In *West Texas Utilities Company*, 18 FERC ¶ 61,189 (1982), we explained that where our preliminary review indicates that proposed rates may be unjust and unreasonable, but may not be substantially excessive, as defined in *West Texas*, we would generally impose a nominal suspension. In the instant proceeding, our examination suggests that JCP&L's Phase A rates may not produce substantially excessive revenues. Therefore, we shall suspend those rates for one day, to become effective, subject to refund, on May 31, 1985. With respect to JCP&L's proposed Phase B rates, no action is necessary in light of the company's April 18, 1985 request to withdraw them.

In accordance with the Commission's policy and practice established in *Arkansas Power and Light Company*, 8 FERC ¶ 61.131 (1979), we shall phase the price squeeze issue raised by Allegheny and the Boroughs.

The Commission Orders

(A) Summary disposition is hereby granted with respect to interest expense synchronization and inclusion of nuclear radwaste systems in rate base. At the conclusion of proceedings in this docket, JCP&L shall file revised tariff sheets and cost-of-service statements reflecting the snychronized calculation of interest expense and the exclusion of nuclear radwaste systems from the pollution control CWIP allowance in rate base, as discussed above.

(B) JCP&L's proposed Phase A rates are hereby accepted for filing and are suspended for one day, to become effective, subject to refund, on May 31, 1985.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of JCP&L's Phase A rates.

(D) The Commission staff shall serve top sheets in this proceeding within ten (10) days of the date of this order.

(E) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's rules of practice and procedure (18 CFR Part 385).

(F) The Commission hereby orders initiation of price squeeze procedures and further orders that this proceeding be phased so that the price squeeze procedures begin after issuance of a Commission opinion establishing the rate which, but for consideration of price squeeze, would be just and reasonable. The presiding judge may modify this schedule for good cause. The price squeeze portion of this case shall be governed by the procedures set forth in § 2.17 of the Commission's regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(G) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Jersey Central Power & Light Company (Docket No. ER85-401-000) Rate Schedule Designations

Designation	Description
(1) Eleventh Revised Sheet No. 13 to FPC Electric Tariff, Original Volume No. 1 (Supersedes Tenth Revised Sheet No. 13).	Rates.
(2) Fifth Revised Sheet No. 15 to FPC Electric Tariff, Original Volume No. 1 (Supersedes Fourth Revised Sheet No. 15).	Fuel Cost Adjustment Clause.
(3) Supplement No. 3 to Rate Schedule FERC No. 45 (Supersedes Supplement No. 1).	Appendix A—Wheeling Rate.
(4) Supplement No. 4 to Rate Schedule FERC No. 45 (Supersedes Supplement No. 2).	Appendix B—Supplement Power and Energy Rate/Fuel Cost Adjustment Clause.

[FR Doc. 85-12739 Filed 5-24-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA85-4-5-000, TA85-4-5-001, RP85-147-000]

Midwestern Gas Transmission Co.; Notice of Tariff Filing and Purchased Gas Adjustment Rate Change

May 21, 1985.

Take notice that on May 15, 1985, Midwestern Gas Transmission Company (Midwestern) tendered for filing ten copies of Second Substitute Fourteenth Revised Sheet No. 6 and Substitute Ninth Revised Sheet No. 8, proposed to be effective April 1, 1985, and ten copies of the following tariff sheets to its FERC Gas Tariff proposed to be effective November 1, 1984:

Original Volume No. 1

Second Substitute Original Sheet No. 169-B
Substitute First Revised Sheet Nos. 83, 85-B, 85-C, 85-D, 86-A, 98, 99, 165, 166, 170, 188
Second Substitute First Revised Sheet No. 169-A
Substitute Second Revised Sheet Nos. 86, 167, 169
Substitute Third Revised Sheet No. 85-A
Substitute Fourth Revised Sheet Nos. 84, 168
Substitute Fifth Revised Sheet No. 85
Substitute Eighth Revised Sheet No. 8
Substitute Thirteenth Revised Sheet No. 6

Original Volume No. 2

Substitute First Revised Sheet Nos. 68-D and 68-E
Substitute Eleventh Revised Sheet No. 37

Midwestern states that the purposes of this filing are: first, to revise Midwestern's Northern System tariff consistent with the amendments to Midwestern's gas purchase contracts with TransCanda PipeLines Ltd. (the Amended TransCanada Contracts) and to a related agreement between Midwestern, TransCanada and ANR Pipeline Company (Amended Three

Party Agreement), all of which became effective as of November 1, 1984 subject to receipt of government approvals satisfactory to the parties; second, to implement an agreement with ANR concerning the applicability of the proposed tariff sheets during the 1984–85 winter period from November 1 through March 31; and, third, to implement a Purchased Gas Adjustment (PGA) rate change effective as of April 1, 1985, in conformance with revisions to Midwestern's Northern System PGA clause, Article XVIII of the General Terms and Conditions.

Midwestern states that the tariff sheets for which it requests an effective date of November 1, 1984 contain the revisions necessary to implement the Amended TransCanada Contracts and the Amended Three-Party Agreement. Second Substitute Fourteenth Revised Sheet No. 6, proposed to be effective as of April 1, 1985, reflects the reduced off-peak rates under the Amended TransCanada Contracts for Rate Schedules CR–2, CRL–2 and I–2 as of April 1, 1985, and the Surcharge to Amortize the Unrecovered Purchased Gas Cost Account as of October 31, 1984, pursuant to Sections 2 and 3 of the revised PGA clause.

Midwestern proposes to flow through to ANR under Rate Schedule CD–2 each month the actual demand and commodity cost of gas paid by Midwestern for purchases for service to ANR under the Amended TransCanada Contracts, adjusted for underruns and overruns of nominations, plus the actual cost of fuel allocated to Rate Schedule CD–2. Midwestern similarly proposes to flow through the actual cost of fuel allocated to Rate Schedules T–2 and T–9. Midwestern also proposes to change the effective dates of Northern System PGA rate filings from January 1 and July 1 to April 1 and November 1 of each year consistent with the price structure of the Amended TransCanada Contracts and to implement an annual surcharge effective April 1 of each year. In addition, Midwestern proposes to allocate the balance in the Unrecovered Purchased Gas Cost Account for the Northern System as of October 31, 1984 between ANR under Rate Schedule CD–2 and Midwestern's other Northern System sales customers and to bill ANR for its proportionate share of the outstanding balance in Midwestern's first invoice after the tariff sheets become effective. Midwestern requests waiver of §§ 154.38(d)(1) and 154.38(d)(4) of the Commission's Regulations and any other waivers necessary to implement these changes.

Midwestern also requests waiver of the tariff sheets to implement the terms of a settlement with ANR to resolve all issues concerning the charges for overruns and underruns during the past winter period (November 1, 1984–March 31, 1985).

Midwestern states that the Current Purchased Gas Cost Adjustment reflected on Second Substitute Fourteenth Revised Sheet No. 6 consists of Unit Demand Rate Changes of $0.11 per Mcf for Rate Schedules CR–2 and CRL–2, 0.9 cents per Mcf for Rate Schedule SR–2, 0.36 cents per Mcf for Rate Schedule 1–2, a negative Unit Gas Rate Change of 42.60 cents per Dkt, and a Gas Surcharge of 2.29 cents per Dkt. Midwestern states further that the Unit Rate Changes are based upon the demand and commodity gas rates under the Amended TransCanada Contracts effective April 1, 1985, and Midwestern's estimated sales billing units and system fuel requirements for the April-October 1985 PGA period. The Gas Surcharge is based upon the Other Customers' share of the Unrecovered Purchased Gas Cost Account as of October 31, 1984 and Midwestern's estimated sales billng units for the April 1, 1985–March 31, 1986 Surcharge Period.

Midwestern states that copies of the filing have been mailed to all of its jurisdictional customers and affected stat regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before May 31, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 85–12740 Filed 5–24–85; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. EL84–41–000]

Neisler, Inc.; Petition for Declaratory Order

May 20, 1985.

Take notice that on August 27, 1984, Neisler, Inc. (Petitioner) filed a petition pursuant to 18 CFR § 385.207(a)(2) requesting that the Commission issue an order declaring that Petitioner's Brushy Mountain Project is not subject to the Commission's jurisdiction under the Federal Power Act (Act), since it will not involve the construction of a dam on a navigable waterway, will not require any post-1935 construction, and will not affect the interest of interstate or foreign commerce pursuant to Section 23(b) of the Act. Therefore, it is not required to be licensed or exempted from licensing before the Petitioner may restore, operate, or maintain the project. The project is located on the Lower Little River in Alexander County, North Carolina. Correspondence concerning this petition should be addressed to: Mr. Joe Neisler, Jr., Neisler, Inc., Brushy Mountain Power Company, P.O. Box 72, Kings Mountain, North Carolina 28086.

As described in the petition, the project was constructed by Millers Manufacturing Company in 1919 to supply power to its cotton yarn mill. The economic depression of 1929 forced the Millers Manufacturing Co. into bankruptcy and on May 2, 1930 the firm was purchased by D.P. Rhodes and A.A. Whitner. The project consists of a reservoir, a concrete buttress dam, approximately 30 feet high and 200 feet long, a powerhouse containing 2 generator units rated at 225 KVA and 155 KVA, respectively, and a .6-kV transmission 100 feet long. The Petitioner states that it has made no modifications that would increase the capacity of the project or significantly change the project's pre-1935 design or operation.

Comments, Protests, or Motions to Intervene

Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedures, 18 C.F.R. § 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all the protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before July 1, 1985.

The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 85–12741 Filed 5–24–85; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER85-398-000]

Northern States Power Company (Wisconsin); Order Accepting for Filing and Suspending Rates, Noting Interventions, and Establishing Hearing and Price Squeeze Procedures

Issued May 22, 1985.

Before Commissioners: Raymond J. O'Connor, Chairman; A. G. Sousa, Oliver G. Richard III and Charles G. Stalon.

On March 28, 1985, Northern States Power Company (Wisconsin) (NSP-W) tendered for filing a proposed increase in its rates for full requirements service to 13 municipal wholesale customers.[1] The proposed rates would increase revenues by approximately $1.4 million (10%), based on the calendar year 1985 test period. NSP-W requests that the proposed rates become effective on May 30, 1985.

Notice of the company's filing was published in the **Federal Register**,[2] with comments due on or before April 22, 1985. The Public Service Commission of Wisconsin filed a timely notice of intervention, which raises no substantive issues. In addition, a timely motion to intervene was filed by the cities and villages of Bangor, Barron, Bloomer, Cadott, Cornell, and Spooner, Wisconsin, and the Wisconsin Public Power Incorporated SYSTEM for its delivery points at the cities of Black River Falls, New Richmond, River Falls, Westby, and Whitehall, Wisconsin (Municipal Intervenors). The Municipal Intervenors request a five month suspension and an investigation and hearing. In support of their request for a maximum suspension, the Municipal Intervenors raise various cost of service issues, including: (1) Rate of return on common equity; (2) depreciation rates; (3) allocation of distribution and transmission expenses; (4) demand allocation; (5) fuel stocks; (6) the projection of purchased power costs under the NSP system agreement; and (7) revenue credits. The Municipal Intervenors further allege price squeeze.

On May 1, 1985, NSP-W filed a timely response to the Municipal Intervenors' pleading. While not opposing the Municipal Intervenors' motion to intervene, NSP-W denies that a five month suspension is warranted. In each instance, NSP-W asserts that the Municipal Intervenors' objections to the filing are without merit.

Discussion

Under Rule 214 of the Commission's rules of practice and procedure (18 CFR 385.214), the timely notice and motion to intervene serve to make the Wisconsin Commission and the Municipal Intervenors parties to this proceeding.

Our preliminary review of the company's filing and the pleadings indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the rates for filing and suspend them as ordered below.

In *West Texas Utilities Company*, 18 FERC ¶61,189 (1982), we explained that where our preliminary examination indicates that proposed rates may be unjust and unreasonable, but may not be substantially excessive, as defined in *West Texas*, we would generally impose a nominal suspension. Here, our examination suggests that the proposed rates may not result in substantially excessive revenues. Therefore, we shall suspend NSP-W's proposed rates for one day, to become effective, subject to refund, on May 31, 1985.

In accordance with the Commission's policy and practice established in *Arkansas Power and Light Company*, 8 FERC ¶61,131 (1979), we shall phase the price squeeze issue raised by the Municipal Intervenors.

The Commission Orders

(A) NSP-W's proposed rates are hereby accepted for filing and are suspended for one day, to become effective, subject to refund, on May 31, 1985.

(B) Pursuant to the authority contained in and subject to the jurisdiction confered upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's rules of practice and procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of NSP-W's proposed rates.

(C) The Commission staff shall serve top sheets in this proceeding within ten (10) days of the date of this order.

(D) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's rules of practice and procedure.

(E) The Commission hereby orders initiation of price squeeze procedures and further orders that this proceeding be phased so that the price squeeze procedures begin after issuance of a Commission opinion establishing the rates which, but for consideration of price squeeze, would be just and reasonable. The presiding judge may modify this schedule for good cause. The price squeeze portion of this case shall be governed by the procedures set forth in § 2.17 of the Commission's regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(F) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Northern States Power Company (Wisconsin) (Docket No. ER85-398-000) Rate Schedule Designations

Designation	Other party
(1) Supplement No. 14 to Rate Schedule FERC No. 52 (Supersedes Supplement No. 13).	Village of Trempealeu.
(2) Supplement No. 15 to Rate Schedule FERC No. 55 (Supersedes Supplement No. 14).	Wisconsin Public Power Incorporated System for City of Westby.
(3) Supplement No. 12 to Rate Schedule FERC No. 56 (Supersedes Supplement No. 11).	City of Rice Lake.
(4) Supplement No. 11 to Rate Schedule FERC No. 58 (Supersedes Supplement No. 10).	City of Bangor.
(5) Supplement No. 11 to Rate Schedule FERC No. 59 (Supersedes Supplement No. 10).	City of Cornell.
(6) Supplement No. 13 to Rate Schedule FERC No. 60 (Supersedes Supplement No. 12).	Wisconsin Public Power Incorporated System for City of New Richmond.
(7) Supplement No. 7 to Rate Schedule FERC No. 61 (Supersedes Supplement No. 6).	Village of Cadott.
(8) Supplement No. 5 to Rate Schedule FERC No. 62 (Supersedes Supplement No. 4).	City of Bloomer.
(9) Supplement No. 8 to Rate Schedule FERC No. 64 (Supersedes Supplement No. 7).	City of Spooner.

[1] See Attachment for affected customers and rate schedule designations.

[2] 50 FR 14422 (April 12, 1985).

Designation	Other party
(10) Supplement No. 14 to Rate Schedule FERC No. 69 (Supersedes Supplement No. 12).	Wisconsin Public Power Incorporated System for City of River Falls.
(11) Supplement No. 13 to Rate Schedule FERC No. 70 (Supersedes Supplement No. 11).	Wisconsin Public Power Incorporated System for City of Black River Falls.
(12) Supplement No. 6 to Rate Schedule FERC No. 71 (Supersedes Supplement No. 5).	City of Barron.
(13) Supplement No. 5 to Rate Schedule FERC No. 72 (Supersedes Supplement No. 4).	Wisconsin Public Power Incorporated System for City of Whitehall.

[FR Doc. 85-12742 Filed 5-24-85; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP85-5-004]

Northwest Alaskan Pipeline Co.; Tariff Changes

May 21, 1985.

Take notice that on May 15, 1985, Northwest Alaskan Pipeline Company ("Northwest Alaskan"), 295 Chipeta Way, Salt Lake City, Utah 84108-0900, tendered for filing in Docket No. RP85-5-002 Sixteenth Revised Sheet No. 5 to its FERC Gas Tariff Original Volume No. 2.

Northwest Alaskan states that it is submitting Sixteenth Revised Sheet No. 5 reflecting a decrease in demand charges for Canadian gas purchased by Northwest Alaskan from Pan-Alberta Gas Ltd. ("Pan-Alberta") and resold to its four U.S. Purchasers, Northern Natural Gas Company, a Division of Internorth Inc. ("Northern"), Panhandle Eastern Pipe Line Company ("Panhandle"), United Gas Pipe Line Company ("United"), and Pacific Interstate Transmission Company ("PIT") under Rate Schedules X-1, X-2, X-3, and X-4, respectively.

Northwest Alaskan states that it is submitting Sixteenth Revised Sheet No. 5 pursuant to the provisions of the amended purchase agreements between Northwest Alaskan and Northern, Panhandle, United and PIT, and pursuant to Rate Schedules X-1, X-2, X-3, and X-4, which provide for Northwest Alaskan to File 45 days prior to the commencement of the next demand charge period (July 1, 1985 through December 31, 1985) the demand charge and demand charge adjustment which Northwest Alaskan will charge during that period.

Northwest Alaskan requested that Sixteenth Revised Sheet No. 5 become effective July 1, 1985.

Northwest Alaskan states that a copy of this filing is being served on Northwest Alaskan's customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before May 31, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 85-12743 Filed 5-24-85; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP85-69-000]

Penn-York Energy Corp.; Informal Settlement Conference

May 22, 1985.

Take notice that an informal settlement conference will be convened in the above-captioned docket on June 6, 1985, at 10:00 a.m. at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

Attendance will be limited to the parties and the Staff.

Kenneth F. Plumb,
Secretary.

[FR Doc. 85-12746 Filed 5-24-85; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER85-400-000]

Virginia Electric and Power Co.; Order Accepting for Filing and Suspending Rates, Denying Motion To Reject, Granting Waivers, Noting Interventions, Ordering Summary Disposition in Part, and Establishing Hearing and Price Squeeze Procedures

Issued: May 23, 1985.

Before Commissioners: Raymond J. O'Connor, Chairman; A. G. Sousa, Oliver G. Richard III and Charles G. Stalon.

On March 29, 1985, Virginia Electric and Power Company (VEPCO) tendered for filing a proposed two-phase increase in rates to 10 municipal customers and Old Dominion Electric Cooperative (ODEC) and an unphased increase in rates to eight cooperative customers other than ODEC.[1] The unphased and Phase I rates would increase jurisdictional revenues by approximately $4.2 million (2.5%), based on a calendar 1985 test period. The Phase II rates would further increase revenues by approximately $3.8 million (2.3%) VEPCO requests a May 29, 1985 effective date for the unphased and Phase I rates, and a May 30, 1985 effective date for the Phase II rates. In the event that the two phases are suspended for the same period, the company asks that the Phase I rates be deemed withdrawn. Additionally, VEPCO has revised its monthly facilities charge for providing facilities in excess of that normally required to reflect a reduction in the North Carolina gross receipts taxes.

VEPCO requests waiver of the filing requirements in section 35.15 of the Commission's regulations to the extent that certain information required in Statement AX has been previously submitted in other dockets. The company also requests waiver to permit Statement BH to reflect proposed settlement rates filed in Docket No. ER84-355-000 rather than the originally-filed rates. Finally, the company requests waiver regarding Statements BG and BH to the extent that they apply to ODEC for Period I and waiver of § 36.2 to permit the calculation of the filing fee based on Period II data because the company did not begin serving ODEC until the end of Period I.

Notice of the company's filing was published in the Federal Register,[2] with comments due on or before April 22, 1985. Timely interventions were filed by the Secretary of the Navy (Navy), North Carolina Electric Membership Corporation (NCEMC), Central Virginia Electric Cooperative, Inc. (CVEC), Virginia Municipal Electric Association No. 1 (VMEA), Bear Island Paper Company (Bear Island), and ODEC. The Navy, while requesting the right to participate in any hearing ordered, does not raise any specific issues regarding VEPCO's filing. NCEMC requests rejection of the company's filing or a five month suspension and a hearing. CVEC, VMEA, and ODEC request a five month suspension and a hearing. Bear Island requests suspension for at least one day and a hearing. In support, the intervenors raise a variety of cost of

[1] *See* Attachment for affected customers and rate schedule designations.

[2] 50 14423 (1985).

service and rate design issues.[3] Additionally, CVEC raises a question concerning interpretation of a provision for a late payment charge in its rate schedule. Further, VMEA requests summary rejection of VEPCO's inclusion of Three Mile Island (TMI) clean-up costs; that VEPCO be directed to file additional cost of service information reflecting only the effect of the delay in commercial operation of the Bath County pumped storage units; and that price squeeze procedures be initiated.

On May 3, 1985, VEPCO filed an answer to the motions to intervene filed by the Navy and Bear Island. VEPCO does not oppose the Navy's intervention, but it does oppose Bear Island's. The company notes that Bear Island is a third tier customer of VEPCO,[4] and that Bear Island can pursue its interests in retail proceedings. Thus, VEPCO contends, Bear Island's interests in this proceeding are too remote and that it should press its claims in other forums.

On May 6, 1985, VEPCO filed an answer to the motions to intervene of VMEA, NCEMC, and CVEC, and ODEC. The company does not oppose their interventions; it opposes, however, the motions for rejection, for summary disposition, and for suspension of its rates. VEPCO denies the substantive allegations set forth in the motions to intervene.

Discussion

Pursuant to Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 285.214), the timely motions to intervene serve to make the Navy, ODEC, NCEMC, and CVEC parties to this proceeding.

As we have previously found,[5] the ultimate relationship of Bear Island's power costs to VEPCO's rates constitutes good cause to permit Bear Island to intervene, notwithstanding VEPCO's objection.

Regarding VEPCO's requests for waiver of the Commission's filing requirements, we note that, insofar as § 35.19 provides for the submission of information by reference to previous filings, waiver of § 35.13 regarding Statement AX is not necessary. With respect to VEPCO's request for waiver of the Statement BH requirements, we note that, subsequent to VEPCO's filing in this docket, the Commission rejected the proposed offer of settlement filed in Docket No. ER84-355-000. Our action was based on objections to the rate design reflected in that offer. The parties to Docket No. ER84-355-000 are currently attempting to resolve the disputed issues. In view of the fact that the proposed settlement rate level was uncontested and that no intervenors in this docket have opposed VEPCO's request, we find good cause to grant VEPCO's request for waiver of Statement BH. Waiver of Statements BG and BH, to the extent that they apply to ODEC prior to the commencement of service is not necessary; § 35.13 does not require the filing of nonexistent information. Finally, we find good cause to grant VEPCO's request for waiver of § 36.2 to permit the filing fee to be calculated based on Period II data insofar as Period I data is not available for ODEC.

Given the waivers granted by this order, we find that VEPCO's submittal substantially complies with the Commission's filing requirements. Therefore, we shall deny NCEMC's motion to reject VEPCO's filing.

Regarding VMEA's request that VEPCO be directed to file additional cost of service information reflecting the effect of the delay in commercial operations of the Bath County pumped storage units, we note that VEPCO admits that its estimated in-service dates were inaccurate at the time of filing. As we stated in *Delmarva Power & Light Co.*, Opinion No. 185, 24 FERC ¶ 61,199 (1983), an electric utility is obligated to adjust its estimates in such circumstances. The Commission shall therefore summarily reject VEPCO's cost estimates relating to Bath County and require the company to file revised rates and cost statements within 30 days. In this regard, we note that the Commission's established standard is that estimates be reasonable when filed. In the revised filing, VEPCO should reflect its most current estimate of in-service dates for the Bath County project as of the date of its compliance filing.

VMEA's request for summary rejection of VEPCO's inclusion of TMI clean-up costs will be denied. Precedent cited in support of VMEA's motion[6] pertains specifically to contributions to research and development. The issue here, like the other issues raised by the various intervenors, presents questions of law or fact more appropiately resolved on the basis of an evidentiary hearing.

Our review of the company's filing and the pleadings indicates that VEPCO's rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the rates for filing, as modified by summary disposition, and we shall suspend them as ordered below.

In *West Texas Utilities Company*, 18 FERC ¶ 61,189 (1982), we explained that where our preliminary review indicates that proposed rates may be unjust and unreasonable and may be substantially excessive, as defined in *West Texas*, we would generally impose a maximum suspension. Here, our examination suggests that the proposed Phase I rates may not yield substantially excessive revenues. Accordingly, we will suspend those rates, as modified by summary disposition, for one day, to become effective on May 30, 1985, subject to refund. Our examination suggests that the proposed unphased and Phase II rates may yield substantially excessive revenues. Accordingly, we shall suspend those rates, as modified, for five months, to become effective on October 29 and 30, 1985, respectively, subject to refund.

In accordance with the Commission's policy and practice established in *Arkansas Power and Light Company*, 8 FERC ¶ 61,131 (1979), we shall phase the price squeeze issue raised by VMEA.

The Commission Orders

(A) NCEMC's motion to reject VEPCO's filing is hereby denied.

(B) Bear Island's motion to intervene is hereby granted.

(C) VMEA's motion for summary disposition is hereby denied.

(D) Summary disposition is hereby ordered, as noted in the body of this order, with respect to cost estimates based on inservice dates of the Bath County pumped storage units. Within 30 days of the date of this order, VEPCO will refile its rates and supporting cost data to reflect this determination.

(E) As noted in the body of this order, VEPCO's requests for waiver of the section 35.12 filing requirments and the

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[3] The issues raised include: cash working capital, deferral of pumped storage units, rate of return (CVEC, ODEC, NCEMC, and VMEA); conservation and donation expense allocation (CVEC, ODEC, and NCEMC); demand allocation (VMEA, ODEC, and Bear Island); fuel stocks, salaries and wages allowance, administrative and general expenses, state income tax allocation (VMEA); reserve capacity credit, amortization of property loss, payable tax allocation, transmission plant allocation, CWIP (ODEC); on-peak hour increase, off-peak energy charge, added demand charge, high voltage deliveries, line loss, and voltage discounts (Bear Island).

[4] Bear Island is a customer of Rapahanock Electric Cooperative. Rapahanock, in turn, is a customer of ODEC.

[5] *Virginia Electric and Power Company*, 27 FERC ¶ 61,317 at ¶ 61,591 (1984).

[6] *Public Service Company of New Mexico*, Opinion No. 133, 17 FERC ¶ 61,123 (1981).

section 36.2 fee calculation are hereby granted.

(F) VEPCO's submittal, as modified by summary disposition, is hereby accepted for filing; the Phase I rates, as modified, are suspended for one day from May 29, 1985, to become effective subject to refund on May 30, 1985; the unphased and Phase II rates, as modified, are suspended for five months from May 29 and 30, 1985, to become effective subject to refund on October 29 and 30, 1985, respectively.

(G) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of VEPCO's proposed rate schedule changes.

(H) The Commission staff shall serve top sheets in this proceeding within ten (10) days after Commission acceptance of VEPCO's compliance filing submitted in accordance with Ordering Paragraph (D).

(I) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, will convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's rules of practice and procedure.

(J) The Commission hereby orders initiation of price squeeze procedures and further orders that this proceeding be phased so that the price squeeze procedures begin after issuance of a Commission opinion establishing the rate which, but for consideration of price squeeze, would be just and reasonable. The presiding judge may modify this schedule for good cause. The price squeeze portion of this case shall be governed by the procedures set forth in § 2.17 of the Commission's regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(K) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Virginia Electric and Power Company Rate Schedule Designations (Docket No. ER85-400-000)

Unphased and Phase I

Designation	Description
(1) 18th Revised Sheet Nos. 4 through 9, 19th Revised Sheet No. 10, 2nd Revised Sheet Nos. 10-A and 10-B, Original Sheet No. 10-C, 13th Revised Sheet No. 17 and Original Sheet No. 17-A to FPC Electric Tariff, First Revised Volume No. 1 (Supersedes 17th Revised Sheets Nos. 4 through 9, 18th Revised Sheet No. 10, 1st Revised Sheet Nos. 10-A and 10-B and 12th Revised Sheet No. 17).	Schedule RS—Resale Service to Municipals and Private Utilities.
(2) Supplement No. 18 to Rate Schedule FERC No. 106 (Supersedes Supplement No. 14).	Appendix E—Charges for Purchases to Old Dominion EC.
(3) Supplement No. 19 to Rate Schedule FERC No. 106 (Supersedes Supplement No. 16).	Appendix G—Charges for Reserve Capacity to Old Dominion EC.
(4) Supplement No. 8 to Rate Schedule FERC No. 105 (Supersedes Supplement No. 6).	Schedule NC-RC, Resale Service to North Carolina EMC.
(5) Supplement No. 9 to Rate Schedule FERC No. 105.	Facilities Charges to North Carolina EMC.
(6) Supplement No. 58 to Rate Schedule FERC No. 78 (Supersedes Supplement No. 56).	Schedule RC—Resale Service to Craig—Botetourt EC.
(7) Supplement No. 59 to Rate Schedule FERC No. 78.	Schedule RC-F, Facilities to Craig—Botetourt EC.
(8) Supplement No. 75 to Rate Schedule FERC No. 94 (Supersedes Supplement No. 3).	Schedule RC—Resale Service to Central Virginia EC.
(9) Supplement No. 76 to Rate Schedule FERC No. 94.	Schedule RC-F, Facilities Charges to Central Virginia EC.

Phase II

Designation	Description
(1) 19th Revised Sheet Nos. 4 through 9, 20th Revised Sheet No. 10, 3rd Revised Sheet Nos. 10-A and 10-B, 1st Revised Sheet No. 10-C to FPC Electric Tariff, First Revised Volume No. 1 (Supersedes 18th Revised Sheet Nos. 4 through 9, 19th Revised Sheet No. 10, 2nd Revised Sheet Nos. 10-A and 10-B, and Original Sheet No. 10-C).	Schedule RS—Resale Service to Municipals and Private Utilities.
(2) Supplement No. 20 to Rate Schedule FERC No. 106 (Supersedes Supplement No. 18).	Appendix E—Charges for Purchases to Old Dominion EC.
(3) Supplement No. 21 to Rate Schedule FERC No. 106 (Supersedes Supplement No. 19).	Appendix G—Charges for Reserve Capacity to Old Dominion EC.

[FR Doc. 85-12744 Filed 5-24-85; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 8415-001]

Winona Hydro Partners; Surrender of Preliminary Permit

May 21, 1985.

Take notice that Winona Hydro Partners, Permittee for the proposed Mississippi Lock & Dam No. 5 Project No. 8415, requested by letter dated April 29, 1985, that its preliminary permit be terminated. The preliminary permit was issued on February 5, 1985, and would have expired on January 31, 1987. The project would have been located on the Mississippi River in Buffalo County, Wisconsin.

The Permittee filed the request on May 3, 1985, and the preliminary permit for Project No. 8415 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR § 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-12745 Filed 5-24-85; 8:45 am]

BILLING CODE 6717-01-M

[SAB-FRL-2841-5]

Science Advisory Board Radiation Advisory Committee; Open Meeting

Under Pub. L. 92-463, notice is hereby given that a meeting of the Engineering Subcommittee of the Science Advisory Board's (SAB) Radiation Advisory Committee will be held on June 25-26, 1985 in Room 1112 of the U.S. Environmental Protection Agency, Crystal Mall II, 1921 Jefferson Davis Highway, Arlington, Virginia 22202. The meeting will begin at 9:00 a.m. on June 25 and will adjourn no later than 5:00 p.m. on June 26.

The Subcommittee is beginning a review of Chapters 3, 4 and 5 of the March 13, 1985 draft Background Information Document for Proposed Low-Level Radiative Waste Standards (40 CFR Part 193) prepared by EPA's Office of Radiation Programs.

The meeting is open to the public; however, seating is limited. Any member of the public wishing to attend or obtain information should contact Mrs. Kathleen Conway, Executive Secretary, Radiation Advisory Committee, Science Advisory Board, by the close of business on June 21, 1985. The telephone number is (202) 382-2552.

Dated: May 20, 1985.

Terry F. Yosie,

Director, Science Advisory Board.

[FR Doc. 85-12710 Filed 5-24-85; 8:45 am]

BILLING CODE 6560-50-M

[SW-FRL-2841-3]

Transfer of Data to Contractor

AGENCY: Environmental Protection Agency.

ACTION: Notice of transfer of data and request for comments.

SUMMARY: The Environmental Protection Agency (EPA) will transfer to its contractor, Radian Corporation of McLean, VA, information which has been submitted to EPA under Section 3007 of the Resource Conservation and Recovery Act (RCRA). Some of the information may have been claimed as confidential. This firm is working on the waste characterization efforts within the dyes and pigments manufacturing industry, and will need access to this information.

DATE: The transfer of the confidential data submitted to EPA will occur no sooner than June 4, 1985.

ADDRESS: Comments should be sent to the Document Control Officer, Office of Solid Waste, Characterization and Assessment Division (WH-562B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Comments should be identified as "Transfer of Confidential Data."

FOR FURTHER INFORMATION CONTACT: Dina Villari, Document Control Officer, Characterization and Assessment Division (WH-562B), Office of Solid Waste, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 475-8551. For technical information contact Dr. Craig McCormack, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 475-8551.

SUPPLEMENTARY INFORMATION:

Transfer of Data

The U.S. Environmental Protection Agency is conducting a program to characterize waste and asses waste management practices within the organic chemicals manufacturing industry. The Agency will use the results to identify and list hazardous waste under authority of Section 3001 of the Resource Conservation and Recovery Act (RCRA), and to develop appropriate waste management standards under Section 3004.

Under EPA Contract No. 68-01-6940, Radian Corporation of McLean, VA, will assist the Waste Identification Branch of the Office of Solid Waste in conducting waste characterization studies within the dyes and pigments manufacturing industry.

The information being transferred to Radian Corporation was previously collected by TRW, Inc., of Research Triangle Park, NC, under Contract No. 68-02-3174. The Environmental Division of TRW has since been acquired by Radian Corporation and thus Radian Corporation will need access to the information previously submitted, some of which may have been claimed to be confidential.

In accordance with 40 CFR 2.305(h), EPA has determined that Radian employees may require access to confidential business information (CBI) submitted to EPA under Section 3007 of RCRA to perform work satisfactorily under the above-noted contract. EPA is issuing this notice to inform all submitters of information under Section 3007 of RCRA that EPA may transfer to this firm, on a need-to-know basis, confidential business information specific to the dyes and pigments manufacturing industry. Upon completing their review of materials submitted for this industry, Radian will return all such materials to EPA.

Radian Corporation has been authorized to have access to RCRA confidential business information (CBI) under the EPA "Contractors Requirements for the Control and Security of RCRA Confidential Business Information" security manual. EPA has approved the security plan of its contractors and will inspect the facility and approve it prior to RCRA CBI being transmitted to the contractors. Personnel from this firm will be required to sign a non-disclosure agreement and be briefed on appropriate security procedures before they are permitted access to confidential information, in accordance with the "RCRA Confidential Business Information Security Manual" and the Contract Requirements Manual.

Dated: May 9, 1985.

Jack W. McGraw,

Acting Assistant Administrator.

[FR Doc. 85-12712 Filed 5-24-85; 8:45 am]

BILLING CODE 6560-50-M

[SW-FRL-2841-4]

Transfer of Data to Contractor

AGENCY: Environmental Protection Agency.

ACTION: Notice of tranfer of data and request for comments.

SUMMARY: The Environmental Protection Agency (EPA) will transfer to its contractor, SAIC/JRB of McLean, VA, information which has been submitted to EPA under section 3007 of the Resource Conservation and Recovery Act (RCRA). Some of the information may have been claimed as confidential. This firm is conducting data management and waste management assessment efforts in support of the Hazardous Waste Listing Program.

DATE: The transfer of the confidential data submitted to EPA will occur no sooner than June 4, 1985.

ADDRESS: Comments should be sent to the Document Control Officer, Office of Solid Waste, Characterization and Assessment Division (WH-562B), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. Comments should be identified as "Transfer of Confidential Data."

FOR FURTHER INFORMATION CONTACT: Dina Villari, Document Control Officer, Characterization and Assessment Division (WH-562B), Office of Solid Waste, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 475-8551. For technical information contact Ms. Francine Jacoff, Office of Solid Waste (WH-562B), U.S. Enviromental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 475-8551.

SUPPLEMENTARY INFORMATION:

I. Transfer of Data

The U.S. Environmental Protection Agency is conducting a program to characterize waste and assess management practices within the organic chemicals manufacturing industry. The Agency will use the results to identify and list hazardous waste under authority of Section 3001 of the Resource Conservation and Recovery Act (RCRA), and to develop appropriate waste management standards under Section 3004.

Under EPA Contract No. 68-01-6912, SAIC/JRB of McLean, VA, will assist the Waste Identification Branch of the Office of Solid Waste in evaluating data from the organic chemicals manufacturing industry.

The information being transferred to SAIC/JRB was previously managed by SAIC/JRB under Contract No. 68-01-6563.

In accordance with 40 CFR 2.305(h), EPA has determined that SAIC/JRB employees may require access to confidential business information (CBI) submitted to EPA under Section 3007 of RCRA to perform work satifactorily under the above-noted contract. EPA is

issuing this notice to inform all submitters of information under Section 3007 of RCRA that EPA may transfer to this firm, on a need-to-know basis, confidential business information specific to the organic chemicals manufacturing industry. Upon completing their review of materials submitted for this industry, SAIC/JRB will return all such materials to EPA.

SAIC/JRB has been authorized to have access to RCRA CBI under the EPA "Contractors Requirements for the Control and Security of RCRA Confidential Business Information" security manual. EPA has approved the security plan of its contractors and will reinspect the facility and approve it prior to RCRA CBI being transmitted to the contractors. Personnel from this firm have signed a non-disclosure agreement and have been briefed on appropriate security procedures in accordance with the "RCRA Confidential Business Information Security Manual" and the Contract Requirements Manual.

Dated: May 9, 1985.

Jack W. McGraw,

Acting Assistant Administrator.

[FR Doc. 85-12711 Filed 5-24-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL RESERVE SYSTEM

Consumer Advisory Council; Meeting

The Consumer Advisory Council will meet on Thursday, June 20, and Friday, June 21. The meeting, which will be open to public observation, will take place in Terrace Room E of the Martin Building. The June 20 session is expected to begin at 9:00 a.m. and to continue until 5:00 p.m., with a lunch break from 1:00 to 2:00 p.m. The June 21 session is expected to begin at 9:00 a.m and to continue until 1:00 p.m. The Martin Building is located on C Street, Northwest, between 20th and 21st Streets in Washington, D.C.

The Council's function is to advise the Board on the exercise of the Board's responsibilities under the Consumer Credit Protection Act and on other matters on which the Board seeks its advice. Time permitting, the Council will discuss the following topics:

1. *Board's Review of Regulation B.* Discussion of the Board's proposal to revise its equal credit opportunity regulation.

2. *Extension of the Home Mortgage Disclosure Act.* Discussion of issues relating to the proposed extension of the Home Mortgage Disclosure Act (due to expire on October 1, 1985).

3. *Staff Briefing on Advertising Rules of Regulation Q.* Status report on possible revision of the Board's regulation governing the advertising of deposit accounts.

4. *Interstate Banking and the Consumer.* Discussion of the potential effects of interstate banking on the delivery of financial services to consumers.

5. *Disclosures for Adjustable Rate Mortgages.* Report of the Council's Ad Hoc Committee on Adjustable Rate Mortgages on a Board proposal to expand the required Truth in Lending disclosures given to consumers.

6. *Emerging Technologies.* Status report on the work of the Council's Ad Hoc Committee on Emerging Technologies.

7. *Basic Banking Services.* Status report on the work of the Council's Ad Hoc Committe on Service Charges in exploring issues pertaining to so-called "lifeline" or basic banking.

8. *Financial Services Deregulation.* Recap by a Council member of the major issues discussed at a recent conference sponsored by the U.S. Office of Consumer Affairs that dealt with the impact on consumers of the deregulation of the financial services industry, and discussion of (1) what might be done to further encourage cooperation and communication between consumer groups and the financial services industry in an increasingly deregulated environment and (2) how cooperative consumer education efforts can best be utilized to help consumers deal with the new array of options in the financial services area.

9. *Tie-Ins in the Granting of Consumer Credit.* Discussion of the extent to which certain creditors engage in the selling of credit insurance and other related products (service contracts, auto club memberships, buying club plans, etc.) to a consumer without the consumer's explicit request or (in some cases) knowledge.

10. *Regulatory Update.* Status of recent Board regulatory actions in the area of consumer financial services.

Other matters previously considered by the Council or initiated by Council members also may be discussed.

Persons wishing to submit to the Council their views regarding any of the above topics may do so by sending written statements to Ms. Ann Marie Bray, Secretary, Consumer Advisory Council, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Comments must be received no later than close of business Monday, June 17, and must be of a quality suitable for reproduction.

Information with regard to this meeting may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at (202) 452-3204; or Joy W. O'Connell, TDD at (202) 452-3244.

Board of Governors of the Federal Reserve System, May 21, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-12688 Filed 5-24-85; 8:45 am]

BILLING CODE 6210-01-M

Bankers Trust New York Corp. et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 13, 1985.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Bankers Trust New York Corporation,* New York, New York; to engage *de novo* through its subsidiary, BT Brokerage, in providing securities brokerage services, related securities credit activities, and certain incidental activities. These activities would be conducted throughout the United States and in certain foreign countries.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President), 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *First North Port Bancorp,* North Port, Florida; to engage *de novo* through its subsidiary, First North Port Mortgage Corporation, North Port, Florida, in the activities of making and servicing mortgage loans. These activities would be conducted in the State of Florida.

Board of Governors of the Federal Reserve System, May 21, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-12687 Filed 5-24-85; 8:45 am]

BILLING CODE 6210-01-M

First National Bancorp et al; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than June 17, 1985.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *First National Bancorp,* Gainesville, Georgia; to merge with Peoples Bancorp, Cleveland, Georgia, thereby indirectly acquiring Peoples Bank, Cleveland, Georgia.

2. *First Railroad & Banking Company of Georgia,* Augusta, Georgia; to acquire 100 percent of the voting shares of Washington Loan & Banking Company, Washington, Georgia.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Financial Management Services of Jefferson, Inc.,* Jefferson, Wisconsin; to become a bank holding company by acquiring at least 80 percent of the voting shares of the Farmers and Merchants Bank of Jefferson, Jefferson, Wisconsin.

C. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Easton Bancshares, Incorporated,* Easton, Minnesota; to become a bank holding company by acquiring 80.4 percent of the voting shares of State Bank of Easton, Easton, Minnesota.

2. *Rockford Bancorporation,* Rockford, Minnesota; to become a bank holding company by acquiring 94.67 percent of the voting shares of Rockford State Bank, Rockford, Minnesota.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Farmers & Merchants Bancshares,* Mart, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of The Farmers and Merchants National Bank of Mart, Mart, Texas.

Board of Governors of the Federal Reserve System, May 21, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-12689 Filed 5-24-85; 8:45 am]

BILLING CODE 6210-01-M

The Wachovia Corporation et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and §225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 14, 1985.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *The Wachovia Corporation,* Winston-Salem, North Carolina; to engage *de novo* through its subsidiary Wachovia Mortgage Company, Winston-Salem, North Carolina, in the origination and processing of residential construction, development, and income property mortgage loans, the purchase and sale or placement of mortgage loans, the administration and servicing of loans, the management and sale of properties acquired through foreclosure or transfers in lieu of foreclosure, and acting as agent for credit life and accident and health insurance and for property and casualty insurance related to extensions of credit; pursuant to section 4(c)(8) (A) & (D) of the Bank Holding Company Act.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President), 411 Locust Street, St. Louis, Missouri 63166:

1. *Regional Bancshares, Inc.,* Alton Illinois; to engage *de novo* directly in acting as agent in the sale of life, accident and health insurance directly related to extensions of credit made by

its subsidiary bank. These activities would be performed in Madison County, Illinois.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President), 101 market Street, San Francisco, California 94105:

1. *Pacific Capital Bancorp*, Salinas California; to engage *de novo* through its subsidiary Pacific Capital Services Corporation, Monterey, California, in arranging and brokering residential and commercial property mortgages, construction loans and other extension of credit.

2. *First Interstate Bancorp*, Los Angeles, California; to engage *de novo* through it subsidiary, First Interstate Financial Services, Inc. Los Angeles, California, to expand the geographic scope of service to include the entire United States for previously approved activities of acting as an insurance agent or broker in offices at which the holding company or its subsidiaries are otherwise engage in business with respect to insurance.

Board of Governors of the Federal Reserve System, May 21, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-12690 Filed 5-24-85; 8:45 am]

BILLING CODE 6210-01-M

Union National Bancorp of Barbourville, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Boad of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than June 14, 1985.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Union National Bancorp of Barbourville, Inc.*, Barbourville, Kentucky; to become a bank holding company by acquiring 80 percent of the voting shares of The Union National Bank of Barbourville, Barbourville, Kentucky.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Barnet Banks of Florida, Inc.*, Jacksonville, Florida; to merge with Niceville Bankshares Corporation, Niceville, Florida, thereby indirectly acquiring First National Bank of Niceville, Niceville, Florida.

2. *Florida Commerce Bankshares Corporation*, Clearwater, Florida; to become a bank holding company by acquiring 98 percent of the voting shares of Florida Bank of Commerce, Clearwater, Florida.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Harris Bankcorp, Inc.*, Chicago, Illinois; to acquire 100 percent of the voting shares of The First National Bank and Trust Company of Barrington, Barrington, Illinois. In this regard, Harris's first and second tier parent corporations, Bankmont Financial Corp., New York, New York, and Bank of Montreal, Montreal, Quebec, Canada, have applied to indirectly acquire bank.

2. *Tri City Bankshares Corporation*, Oak Creek, Wisconsin; to acquire 100 percent of the voting shares or assets of Tri City National Bank of Brookfield, Brookfield, Wisconsin (in organization).

D. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Financial Dominion of Kentucky, Inc.*, Radcliff, Kentucky; to acquire at least 99.6 percent of the voting shares of Farmers Deposit Bank, Brandenburg, Kentucky.

E. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Kootenai Bancorp*, Libby, Montana; to become a bank holding company by acquiring 28.39 percent of the voting shares of First National Bank in Libby, Libby, Montana.

F. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Farmers Enterprises Inc.*, Albert, Kansas; to acquire 80 percent of the voting shares or assets of Charter West Bank, N.A., Great Bend, Kansas, a *de novo* bank.

Board of Governors of the Federal Reserve System, May 20, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-12686 Filed 5-24-85; 8:45 am]

BILLING CODE 6210-01-M

Chemical New York Corp.; Proposed Acquisition of Bank

The Chemical New York Corporation has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting securities of Chemical Bank Ohio, Cincinnati, Ohio, a state chartered commercial bank. Chemical Bank Ohio is the successor in interest by merger to Home State Savings Bank, Cincinnati, Ohio, a state chartered savings and loan association.

Upon consummation of the acquisition, Chemical Bank Ohio will operate approximately 33 commercial bank branches in the greater Cincinnati, Dayton, and Columbus, Ohio areas. Interested persons may express their views in writing on this proposal. Any comments must conform with the requirements of the Board's Rules of Procedure (12 CFR 262.3(e)).

The Ohio Superintendent of Savings and Loan Associations and the Ohio Superintendent of Banks have requested that the Board act expeditiously in this matter under the provisions of § 225.14(h)(2) of the Board's Regulation Y (12 CFR 225.14(h)(2)). Accordingly, comments regarding this application must be submitted in writing and must be received at the offices of the Board of Governors not later than 5:00 P.M. on Monday, June 3, 1985. This application is available for inspection at the offices of the Board of Governors and at the Federal Reserve Banks of New York and Cleveland.

In connection with this application, Applicant also has applied on behalf of Chemical Bank Ohio for approval under section 9 of the Federal Reserve Act (12 U.S.C 321 *et seq.) and section 208.4 of Regulation H (12 (12 CFR 208.4) for membership in the Federal Reserve System.*

Board of Governors of the Federal Reserve System, May 23, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-12891 Filed 5-24-85; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 85E-0159]

Determination of Regulatory Review Period for Purposes of Patent Extension; Merital Capsules

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for the human drug product Merital Capsules and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESS: Written comments and petitions should be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Frank Sasinowski, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

SUPPLEMENTARY INFORMATION: The "Drug Price Competition and Patent Term Restoration Act of 1984" (Pub. L. 98-417) generally provides that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under that act, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigation of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until permission to market the drug product is granted. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has determined that the applicable regulatory review period for Merital (nomifensine meleate) Capsules is 4,423 days. Of this time 2,227 days occurred during the testing phase of the regulatory review period, and 2,196 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act involving this drug product became effective: November 23, 1972.* FDA has verfied that November 23, 1972, is the date on which an exemption became effective. This is the date claimed by the applicant in its application for patent extension.

2. *The date an application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act: December 28, 1978.* The applicant claimed that the new drug application for the drug (NDA 18-224) was initially submitted on December 26, 1978; however, FDA did not receive the application until December 28, 1978.

3. *The date the application was approved: December 31, 1984.* FDA has verified that NDA 18-224 was approved on December 31, 1984, as stated by the applicant.

This determination of the regulatory review period establishes the maximum potential amount of patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculation of the actual period of patent extension. In its application for patent extension, this applicant seeks 730 days of patent extention.

Anyone with knowledge that any of the dates as published is in error may, on or before July 29, 1985, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before Nov. 25, 1985, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. No. 98-857, Part 1, 98 Cong., 2d Sess., pp. 41-42, 1984.) The petition should be in the format described in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Received comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 17, 1985.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 85-12667 Filed 5-24-85; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 85E-0155]

Determination of Regulatory Review Period for Purposes of Patent Extension; Tornalate Metered Dose Inhaler

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for the human drug product Tornalate Metered Dose Inhaler and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extention of a patent which claims that human drug product.

ADDRESS: Written comments and petitions should be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Frank Sasinowski, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) generally provides that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under that act, a

product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigation of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until permission to market the drug product is granted. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has determined that the applicable regulatory review period for Tornalate (bitolterol mesylate) Metered Dose Inhaler is 3,789 days. Of this time, 2,896 days occurred during the testing phase of the regulatory review period and 893 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date and exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act involving this drug product became effective: August 15, 1974.* The applicant claimed August 7, 1987, as the date that commenced the testing phase; however, FDA records indicates the effective date of the claimed investigational new drug application (IND 10-825) as August 15, 1974.

2. *The date an application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act: July 20, 1982.* The applicant claimed that the new drug application for the drug (NDA 18-770) was initially submitted on July 19, 1982; however, FDA did not receive the application until July 20, 1982.

3. *The date the application was approved: December 28, 1984.* FDA has verified that NDA 18-770 was approved on December 28, 1984, as stated by the applicant.

This determination of the regulatory review period establishes the maximum potential amount of patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculation of the actual period of patent extension. In its application for patent extension, this applicant seeks 730 days of patent extension.

Anyone with knowledge that any of the dates as published is in error may, on or before July 29, 1985, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before November 25, 1985, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. No. 98-857, Part 1, 98 Cong., 2d Sess., pp. 41-42, 1984.) The petition should be in the format described in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Received comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 17, 1985.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 85-12668 Filed 5-24-85; 8:45 am]

BILLING CODE 4160-01-M

Social Security Administration

Availability of Funding for Planned Secondary Resettlements (PSR) of Refugees

Correction

In FR Doc. 85-11485 beginning on page 20038 in the issue of Monday, May 13, 1985, make the following corrections:

1. On page 20038, in the third column, in the footnote, in the last line, remove "of".

2. On page 20039, in the first column, in the paragraph beginning "Resettlement", in the eighth line, "if" should read "is".

3. On page 20039, in the third column, in paragraph 4.g, in the first line, "timeliness" should read "timelines".

4. On page 20040, in the third column, in paragraph III.3, in the twelfth line, "expended" should read "expanded".

5. On page 20041, in the second column, in the 28th, 30th, and 44th lines, "timeliness" should read "timelines".

5. On page 20042, in the first column, in the last line, insert "postmarked" after "or".

6. On page 20042, in the third column, in the second heading, "**CONTRACT**" should read "**CONTACT**".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-37846]

Alaska Native Claims Selection; Cook Inlet Region, Inc.

In accordance with Departmental regulation Title 43 Code of Federal Regulations (CFR) 2650.7(d), notice is hereby given that the Decision to Issue Conveyance (DIC) to Cook Inlet Region, Inc., notice of which was published in the **Federal Register** Vol. 47, No. 127 on pages 28807-28811, is modified by re-routing Easement Identification Numbers (28 D9) and (29 C3), due to the recent approval of several Native allotments.

Upon issuance, the modified DIC will be published once a week, for four (4) consecutive weeks, in the Anchorage Times. Copies of the modified DIC can be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest which is adversely affected by the decision shall have until June 27, 1985 to file an appeal on the issue in the modified DIC. However, parties receiving service by certified mail shall have 30 days from the date of reciept to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements in 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Except as modified, the decision, notice of which was given July 1, 1982, is final.

Olivia Short,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 85-12722 Filed 5-24-85; 8:45 am]

BILLING CODE 4310-JA-M

[AA-6701-C]

Alaska Native Claims Selection; Seldovia Native Association

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1611, will be issued to Seldovia Native Association for approximately 8.08 acres. The lands involved are in the vicinity of Seldovia.

U.S. Survey No. 4750, Alaska, lot 5, situated on the southerly shore of Kasitsna Bay at the entrance to Jakolof Bay adjoining U.S. Survey Nos. 4601, 2675 and M.S. No. 2162.
Containing approximately 8.08 acres.

A notice of the decision will be published once a week for four (4) consecutive weeks, in the Anchorage Daily News. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision shall have until June 27, 1985 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Olivia Short,
Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 85–12721 Filed 5–24–85; 8:45 am]
BILLING CODE 4310–JA–M

Bureau of Reclamation

Milk River Water Supply Project, MO; Intent To Prepare a Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Department of the Interior proposes to prepare a Draft Environmental Statement (DES) for the potential Milk River Water Supply Project, Montana. The preferred plan includes a 48-mile canal which would transfer water from the Missouri River near Virgelle, Montana, to the Milk River west of Havre, Montana. Natural flows of the Missouri River could be supplemented with releases from Tiber Dam to the Marias River. The primary purpose of the potential project would be to provide replacement irrigation water for the Milk River Valley. The canal would pass through rangeland and dryland farms and terminate at the Milk River. Alternative canal locations are being examined; however, it is expected that Big Sandy Creek would convey water along part of the canal route. The Bureau of Reclamation examined six other alternatives in earlier studies and found them all to be infeasible except for the proposed route. No further consideration of the other alternatives is planned.

Environmental effects of moving water from the Missouri River to the Milk River will be analyzed in the DES. Preliminary issues and concerns include: (1) The flows and fishery impacts in Big Sandy Creek, Marias and Missouri Rivers; (2) the appropriate canal route, and (3) the introduction of biota from one river basin to another. Limited disturbance of terrestrial habitat is expected, resulting in minimal impacts to the area's wildlife population.

Two scoping sessions will be held for the potential project as follows:

June 18, 1985, 7:00 p.m., High School Auditorium, Big Sandy, Montana
June 19, 1985, 7:00 p.m., VFW Hall, Malta, Montana

The contact person for this environmental statement is Mr. Stan Gappa, Reports and Environment Branch, Bureau of Reclamation, P.O. Box 2553, Billings, Montana 59103, telephone (406) 657–6519.

Dated: May 21, 1985.
Robert A. Olson,
Acting Commissioner.

[FR Doc. 85–12670 Filed 5–24–85; 8:45 am]
BILLING CODE 4310–09–M

Kesterson Reservoir Closure and Cleanup; Intent To Prepare a Draft Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969 (as amended), the Bureau of Reclamation, Department of the Interior, with the cooperation of the Fish and Wildlife Service, intends to prepare an environmental impact statement (EIS) addressing the impacts of closing and cleaning up Kesterson Reservoir, Merced County, California. On March 15, 1985, the Secretary of Interior announced his decision to initiate the process of closing Kesterson as a disposal facility for agricultural drainage. The plan for closure and cleanup of the reservoir will be submitted to the State Water Resources Control Board (SWRCB) for its review and approval, in compliance with the Board's Order No. WQ 85–1, issued on February 5, 1985.

Kesterson Reservoir, a 1,200-acre evaporation facility consisting of 12 ponds with a total storage capacity of approximately 4,800 acre-feet, is located near the city of Gustine in the San Joaquin Valley. The Department of the Interior, Bureau of Reclamation (Bureau), owns and operates the facility. The reservoir occupies a portion of a 5,900-acre area which was purchased by the Bureau. The Fish and Wildlife Service (Service) has secondary management jurisdiction for the area, pursuant to a cooperative agreement with the Bureau executed in 1970. The Service administers the area as a unit of the National Wildlife Refuge System.

Kesterson Reservoir is operated in connection with the San Luis Drain, which was originally designed by the Bureau to collect and carry subsurface agricultural drainage from Kettleman City in the southern San Joaquin Valley to the Delta at Suisun Bay. The reservoir was designed to regulate flows in the San Luis Drain prior to their discharge to the Delta. The San Luis Drain was originally planned to be approximately 207 miles long, but only 85 miles extending from the vicinity of Five Points north to Kesterson Reservoir have been constructed. The reservoir currently serves as a storage and evaporation facility for approximately 6,500 to 8,500 acre-feet per year of subsurface agricultural drainage originating within the Westlands Water District.

The Fish and Wildlife Service first reported deformities and mortalities among aquatic birds at Kesterson Reservoir in 1983. These incidences have been attributed to ingestion of selenium, a naturally occurring soil trace element which exists within the agricultural drainage. It is believed that selenium bioaccumulates through the food chain to levels which may be toxic to higher life forms, such as birds.

On February 5, 1985, the SWRCB ordered the Bureau to take appropriate actions: (1) to minimize seepage at Kesterson Reservoir; (2) to alleviate the threat of future discharges from the reservoir due to inadequate capacity; (3) to mitigate the nuisance conditions caused by the operation of the reservoir (i.e., any threat to waterfowl and other wildlife; any threat to public health due to the potential for consumption of selenium contaminated waterfowl; and any interference with the free use of lands surrounding the reservoir); (4) to submit a revised Report of Waste

Discharge or a closure and postclosure maintenance plan; and (5) to submit a groundwater monitoring plan. On March 15, 1985, The Secretary of Interior announced that the reservoir would be closed to assure that the Department fulfills its responsibilities under the Migratory Bird Treaty Act.

The EIS will address alternative methods for closing and cleaning up Kesterson Reservoir which take into account the possible need to remove sediments, groundwater, and vegetation; contaminated waste management options including on the offsite disposal; and the ultimate disposition of the ponds themselves including capping, conversion to fresh water marsh, and management in a dry condition. All alternatives are premised on the cessation of agricultural drain water discharges into Kesterson no later than June 30, 1986. In addition, the EIS will address alternatives for managing, closing and/or cleaning up the San Luis Drain water management facilities planned by the Westlands Water District.

Other environmental review and consultation requirements will be conducted concurrently with the NEPA process in accordance with the Clean Water Act, the Fish and Wildlife Coordination Act, the National Historic Preservation Act, the Endangered Species Act, and Executive Orders 11988 and 11990 regarding Floodplains and Wetlands. While the EIS is being prepared, interim management actions related to the Board's order will be analyzed in accordance with all NEPA and related environmental requirements.

Scoping meetings will be held at 7:00 p.m., on June 26, 1985, at the McCabe School, Mendota Union School District, 250 South Derrick Street, Mendota, California; and at 7:00 p.m., on June 27, 1985, at the Merced Fair Grounds, 4th and F Streets, Los Banos, California. The scoping meetings, which will be in a workshop format, are intended to solicit public input to determine significant issues, potential environmental effects, and other information related to the proposed action. Those persons wishing to make formal statements should do so, in writing, by July 5, 1985, to the Bureau of Reclamation at the address provided below.

Further information may be obtained from the Office of Environmental Quality, Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825–1898. The Bureau contacts for this draft EIS are Roderick Hall (916) 484–4792 and Bod Schroeder (916) 484–4507. The Service contact is Stephen B. Moore, (916) 484–4133.

Dated: May 22, 1985.

Richard Atwater,

Commissioner.

[FR Doc. 85–12723 Filed 5–24–85; 8:45 am]

BILLING CODE 4310-09-M

National Park Service

Boston National Historical Park Advisory Commission; Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice set forth the schedule and proposed agenda of the forthcoming meeting of the Boston National Historical Park Advisory Commission. The matters to be discussed at this meeting include:

1. Navy Yard Access and Parking.
2. Visitor Services—Program Highlights.
3. Planning and Development Update.
4. Special Events.
5. Cooperative Site Reports.
6. Report of Superintendent.
7. Importance of Boston National Historical Park to economics of City, State and Nation.

DATE: June 13, 1985, 11:00 a.m. to 3:00 p.m.

ADDRESS: Boston National Historical Park, Hull Room, Building 5, Charlestown Navy Yard.

FOR FURTHER INFORMATION CONTACT: John J. Burchill, Boston National Historical Park, 15 State Street, Boston, Massachusetts 02109 (617–242–5644).

SUPPLEMENTARY INFORMATION: Notice is hereby given in accordance with the Federal Advisory Commission Act, Pub. L. 92–463. The Commission was established by Pub. L. 93–431 to advise the Secretary of the Interior on matters relating to the development of the Boston National Historical Park. If handicapped accessibility is required, please notify the Superintendent at least five working days prior to the meeting.

Dated: May 9, 1985

Richard S. Tousley,

Acting Regional Director, North Atlantic Region.

[FR Doc. 85–12764 Filed 5–24–85; 8:45 am]

BILLING CODE 4310-70-M

Boundary Adjustments Pinnacles National Monument

Under the exchange authority of Sec. 6 of the Act of September 8, 1980, Pub. L. 96–344, 94 Stat. 1133, the lands hereinafter generally described adjust the boundaries of Pinnacles National Monument, effective the date of this publication.

The following lands situated in the County of San Benito, State of California more particularly described as follows, are hereby deleted from the boundaries of the Pinnacles National Monument:

Mount Diablo Base and Meridian

T17S, R8E

Sec. 18, Lot 6.

Containing 0.77 Acre, more or less.

T17S, R7E,

Sec. 13, Lot 4.

Containing 2.58 Acres, more or less.

The following lands situated in the County of San Benito, State of California more particularly described as follows are hereby added and made part of Pinnacles National Monument:

Mount Diablo Base and Meridian

Parcel B containing 39.63 Acres
Parcel C containing 4.87 Acres
Parcel D containing 2.52 Acres, more or less

As shown on that certain Record of Survey Map recorded in Volume 9 of Maps, at Page 13 in the Official Records, San Benito County, California

For further information contact: Ed Haberlin, Chief, Division of Land Resources, Western Region, National Park Service, Box 36063, 450 Golden Gate Ave., San Francisco, California 94102.

Howard H. Chapman,

Regional Director, Western Region.

[FR Doc. 85–12766 Filed 5–24–85; 8:45 am]

BILLING CODE 4310-70-M

Cape Cod National Seashore, South Wellfleet, MA., Cape Cod National Seashore Advisory Commission; Meeting

Notice is hereby given in accordance withthe Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770 (5 U.S.C. App. 1 10), that a meeting of the Cape Cod National Seashore Advisory Commission will be held Friday, June 14, 1985.

The Commission was established pursuant to Pub. L. 91–383 to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the development of Cape Cod National Seashore.

The meeting will convene at Park Headquarters at 1:30 p.m. to discuss:

The Draft Land Protection Plan.

The meeting is open to the public. It is expected that 15 persons will be able to attend the session in addition to the Commission members.

Interested persons may make oral/written presentations to the Commission

or file written statements. Such requests should be made to the official listed below at least seven days prior to the meeting.

Further information concerning this meeting may be obtained from Herbert Olsen, Superintendent, Cap Cod National Seashore, So. Wellfleet, MA 02663. Telephone: (617) 349-3785. Minutes of the meeting will be available for public information and copying two weeks after the meeting at the Office of the Superintendent, Cape Cod National Seashore, South Wellfleet, Massachusetts.

Herbert Olsen,

Superintendent, Cape Cod National Seashore.

May 17, 1985.

[FR Doc. 85-12765 Filed 5-24-85; 8:45 pm]

BILLING CODE 4310-70-M

National Capital Memorial Advisory Committee; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the National Capital Memorial Advisory Committee will be held at 1:30 p.m., Thursday, June 20, 1985 in Room 234 at the National Capital Region Headquarters, 1100 Ohio Drive, SW., Washington, D.C.

The Committee was established for the purpose of preparing and recommending to the Secretary broad criteria, guidelines and policies for memorializing persons and events on Federal lands in the National Capital Region (as defined in the National Capital Planning Act of 1952, as amended), through the media of monuments, memorials and statues. It is to examine each memorial proposal for adequacy and appropriateness, make recommendations to the Secretary with respect to site location on Federal land in the National Capital Region and to serve as an information focal point for those seeking to erect memorials on Federal land in the National Capital Region.

The members of the Committee are as follows:

Mary Lou Grier (Chairman), Acting Director, National Park Service, Washington, D.C.

Glen Urquhart, Chairman, National Capital Planning Commission, Washington, D.C.

George H. White, Architect of the Capitol, Washington, D.C.

Honorable Armistead J. Maupin, Acting Chairman, American Battle Monuments Commission, Washington, D.C.

J. Carter Brown, Chairman, Commission of Fine Arts, Washington, D.C.

Marion S. Barry, Jr., Mayor of the District of Columbia, Washington, D.C.

L.L. Mitchell, Commissioner, Public Buildings Service, Washington, D.C.

The purpose of the meeting will be to review (1) H.J. RES. 167 to authorize Armored Force Memorial; (2) S. 961 and H.R. 1270 the establishment of a memorial to Martin Luther King, Jr.; (3) H.R. 2205 Korean War Memorial; (4) H.J. RES. 36 establishment of a memorial to honor women who have served in the armed forces of the United States; (5) H.J. RES. 142 to authorize the Black Revolutionary War Patriots Memorial in Constitution Gardens; (6) H.R. 77 to authorize the General Mihailovich Memorial; (7) naming a park in the District of Columbia in honor of Julius Hobson. Also, the committee will consider for adoption its revised guidelines and criteria which were published in the **Federal Register** on April 1, 1985.

The meeting will be open to the public. Any person may file with the Committee a written statement concerning the matters to be discussed. Persons who wish to file a written statement or who want further information concerning the meeting may contact Mr. John G. Parsons, Associate Regional Director, Land Use Coordination, National Capital Region, at 202-426-7750. Minutes of the meeting will be available for public inspection seven weeks after the meeting at the Office of Land Use Coordination, National Capital Region, Room 206, 1100 Ohio Drive, SW., Washington, D.C., 20242.

Dated May 17, 1985.

Manus J. Fish, Jr.,

Regional Director, National Capital Region.

[FR Doc. 85-12763 Filed 5-24-85; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF JUSTICE

Attorney General's Commission on Pornography; Open Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the Department of Justice announces the following meeting and hearings of the Attorney General's Commission on Pornography.

Meeting

Date and Time: June 18, 1985, 10:00 a.m.—11:30 a.m., 3:00 p.m.—4:30 p.m.

Place: Conference Room B, 10th and Constitution Avenue, NW., Washington, D.C. 20530.

Status: This meeting will be open to the public.

Matters to be considered: (1) Welcome; (2) Introduction of Commissioners and Staff; (3) Administration of Oath of Office; (4) Appointment of Officers; (5) Discussion of calendar, hearing sites, and planned agendas; (6) General discussion of issues and methodology to be utilized; (7) Any other relevant matters.

Hearing

Date and Time: June 19, 1985, 9:30 a.m.—6:00 p.m.

Place: Great Hall, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

Matters to be considered: 9:30 a.m., Opening of First Public Hearing—Welcoming remarks; 9:50 a.m.—12:40 p.m., Testimony of witnesses and examination by Commissioners; 1:30 p.m.—6:00 p.m., Testimony of witnesses and examination by Commissioners.

Hearing

Date and Time: June 20, 1985, 8:30 a.m.—6:00 p.m.

Place: Great Hall, 10th and Constitution Avenue, NW., Washington, D.C. 20530.

Status: Open to the public.

Matters to be considered: 8:30 a.m.—12:00 noon, Testimony of witnesses and examination by Commissioners; 1:30 p.m.—5:00 p.m., Testimony of witnesses and examination by Commissioners; 5:00 p.m.—6:00 p.m., Business session, if necessary, to discuss relevant matters.

The meeting and hearings will be open to the public, and written comments may be submitted regarding relevant issues. Approximately 150 seats will be available for the public (including 40 seats reserved for media representatives) on a first-come, first-served basis.

Copies of minutes will be available upon request, at the actual cost of duplication, 30 days after the final hearing on June 20, 1985.

Contact person for more information: Alan E. Sears, Executive Director, Attorney General's Commission on Pornography, HOLC Building, Room 1018, Department of Justice, 320 First Street, NW., Washington, D.C. 20530, (202) 724-7837.

Henry Hudson,

Commission Chairman.

May 21, 1985.

[FR Doc. 85-12759 Filed 5-24-85; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 85-33]

Intent To Grant an Exclusive Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Intent to Grant an Exclusive Patent License.

SUMMARY: NASA hereby gives notice of intent to grant to Dr. Friedlander of Los Angeles, California, a limited, exclusive, royalty-bearing, revocable license to practice the invention as described in U.S. Patent No. 4,383,171 for a "Particle Analyzing Method and Apparatus," which issued on May 10, 1983, to the Administrator of the National Aeronautics and Space Administration on behalf of the United States of America. The proposed exclusive license will be for a limited number of years and will contain appropriate terms and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 CFR Part 1245, Subpart 2. NASA will negotiate the final terms and conditions and grant the exclusive license unless, within 60 days of the date of this Notice, the Director of Patent Licensing receives written objections to the grant, together with supporting documentations. The Director of Patent Licensing will review all written responses to the Notice and then recommend to the Assistant General Counsel for Patent Matters whether to grant the exclusive license.

DATE: Comments to this notice must be received by July 29, 1985.

ADDRESS: National Aeronautics and Space Administration, Code GP, Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT: Mr. John G. Mannix, (202) 453-2430.

Dated: May 20, 1985.

S. Neil Hosenball,

General Counsel.

[FR Doc. 85-12665 Filed 5-24-85; 8:45 am]

BILLING CODE 7510-01-M

[Notice 85-34]

Intent To Grant an Exclusive Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Intent to Grant an Exclusive Patent License.

SUMMARY: NASA hereby gives notice of intent to grant to John Lausch of Carlsbad, California, a limited, exclusive, royalty-bearing, revocable license to practice the invention as described in U.S. Patent No. 4,358,486 for a "Densification of Porous Refractory Substrates," which issued on November 9, 1982, to the Administrator of the National Aeronautics and Space Administration on behalf of the United States of America. The proposed exclusive license will be for a limited number of years and will contain appropriate terms and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 CFR Part 1245, Subpart 2. NASA will negotiate the final terms and conditions and grant the exclusive license unless, within 60 days of the date of this Notice, the Director of Patent Licensing receives written objections to the grant, together with supporting documentation. The Director of Patent Licensing will review all written responses to the Notice and then recommend to the Assistant General Counsel for Patent Matters whether to grant the exclusive license.

DATE: Comments to this notice must be received by July 29, 1985.

ADDRESS: National Aeronautics and Space Administration, Code GP, Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT: Mr. John G. Mannix, (202) 453-2430.

Dated: May 20, 1985.

S. Neil Hosenball,

General Counsel.

[FR Doc. 85-12666 Filed 5-24-85; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Museum Advisory Panel (Overview Section) to the National Council on the Arts will be held on June 13-14, 1985, from 9:00 a.m.-5:30 p.m. in room M-14 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506.

A portion of this meeting will be open to the public on June 13, from 10:30 a.m.-5:30 p.m. and on June 14, from 2:00 p.m.-3:00 p.m. to discuss FY 1987 guidelines, Five-Year Planning document and other policy issues.

The remaining sessions of this meeting on June 13, from 9:00 a.m.-10:30 a.m., and on June 14, from 9:00 a.m.-1:00 p.m. and 3:00 p.m.-5:30 p.m. are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682-5433.

Dated: May 22, 1985.

John H. Clark,

Director, Council and Panel Operations National Endowment for the Arts.

[FR Doc. 85-12736 Filed 5-24-85; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee on Emergency Core Cooling Systems; Meeting

The ACRS Subcommittee on Emergency Core Cooling Systems will hold a meeting on June 12 and 13, 1985, at the Babcock and Wilcox Alliance Research Center, 1562 Beeson Street, Alliance, OH.

Portions of this meeting may be closed to discuss proprietary information submitted in confidence by a foreign government. However, to the extent practical, this meeting will be open to public attendance and any closed sessions will be held so as to minimize inconvenience to members of the public.

The agenda for the subject meeting shall be as follows:

Wednesday, June 12, 1985—8:30 a.m. until the conclusion of business

Thursday, June 13, 1985—8:30 a.m. until the conclusion of business

The Subcommittee will continue the review of the joint NRC/B&WOG/EPRI/B&W joint IST Program. A visit to the MIST facility is planned for the afternoon of June 12.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted

only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statments should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Paul Boehnert (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., e.d.t. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: May 22, 1985.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 85-12729 Filed 5-24-85; 8:45 am]

BILLING CODE 7590-01-M

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: New.

2. The title of the information collection: Survey of Users of Devices Under General License.

3. The form number if applicable: Not applicable.

4. How often the collection is required: One time.

5. Who will be required or asked to report: A sample of persons that use devices containing byproduct material under general license.

6. An estimate of the number of responses: 480

7. An estimate of the total number of hours needed to complete the requirement or request: 280

8. An indication of whether Section 3504 (h), Pub. L. 96-511 applies: Not applicable.

9. Abstract: Devices containing radioactive byproduct material are used in a number of industrial applications, under a general license established by the Commission, for producing light, performing analytical measurements, or elimination of static. NRC will conduct a survey of a sample of users to acquire data for a study of the effectiveness of the general license in protecting public health and safety.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street NW., Washington, DC 20555.

Comments and questions should be directed to the OMB reviewer, Jefferson B. Hill, (202) 395-7340.

The NRC Clearance Officer is R. Stephen Scott, (301) 492-8585.

Dated at Bethesda, Maryland, this 21st day of May 1985.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 85-12729 Filed 5-24-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-400]

Carolina Power & Light Co. et al., Shearon Harris Unit 1; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an Exemption from a portion of the requirements of General Design Criterion (GDC) 4 (10 CFR Part 50, Appendix A) to the Carolina Power & Light Company, and the North Carolina Eastern Municipal Power Agency, (the applicants) for Shearon Harris, Unit 1, located at the applicants' site in Wake County, North Carolina.

Environmental Assessment

Identification of Proposed Action

The Exemption would permit the applicants not to install the pipe whip restraints and jet impingement shields and not to consider the dynamic effects associated with postulated pipe breaks in the Shearon Harris Unit 1 primary coolant system, on the basis of advanced calculational methods for assuring that piping stresses would not result in rapid piping failure; i.e., pipe breaks.

Need for Proposed Action

The proposed exemption is needed in order for the applicants not to consider the dynamic loading effects associated with the postulated full flow circumferential and longitudinal pipe ruptures in the main loop primary coolant system. These dynamic loading effects include pipe whip, jet impingement, asymmetric pressurization transients and break associated dynamic transients in unbroken portions of the main loop and connected branch lines. Therefore, the applicants would not be required to install protective devices such as pipe whip restraints and jet impingement shields related to postulated break locations in the primary coolant loops. Analysis shows that the pipe breaks, which these devices are designed to protect against are extremely unlikely. On the other hand, the presence of these devices increases inservice inspection time in the containment and their elimination would lessen the occupational doses to workers and facilitate inservice inspections.

GDC 4 requires that structures, systems and components important to safety shall be appropriately protected against dynamic effects including the effects of discharging fluids that may result from equipment failures, up to and including a double-ended rupture of the largest pipe in the reactor coolant system (Definition of LOCA). In recent submittals the applicants have provided information to show by advanced fracture mechanics techniques that the detection of small flaws by either inservice inspection or leakage monitoring systems is assured long before flaws in the piping materials can grow to critical or unstable sizes which could lead to large break areas such as the double-ended guillotine break or its equivalent. The NRC staff has reviewed and accepted the applicants' conclusion. Therefore, the NRC staff agrees that double-ended guillotine break in the primary pressure coolant loop piping, and its associated dynamic effects, need not be required as a design basis accident for pipe whip restraints and jet shields; i.e., the restraints and jet shields are not needed. Accordingly, the NRC staff agrees that a partial exemption from GDC 4 is appropriate.

Environmental Impact of the Proposed Action

The proposed Exemption would not affect the environmental impact of the facility. No credit is given for the restraints and shields to be eliminated in calculating accident doses to the environment. While the jet impingement barriers and pipe whip restraints would minimize the damage from jet forces and whipping from a broken pipe, the calculated limitation on stresses required to support this Exemption assures that the probability of pipe breaks which could give rise to such forces are extremely small; thus, the pipe whip restraints and jet shields would have no significant effect on the overall plant accident risk.

The Exemption does not otherwise affect radiological plant effluents. Likewise, the relief granted does not affect non-radiological plant effluents, and has no other environmental impact. The elimination of the pipe whip restraints and jet impingement shields would tend to lessen the occupational doses to workers inside containment. Therefore, the Commission concludes that there are no significant radiological or non-radiological impacts associated with this Exemption.

The proposed Exemption involves design features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect plant non-radioactive effluents and has no other environmental impact. Therefore, the Commission concludes that there are no non-radiological impacts associated with this proposed Exemption.

Since we have concluded that there are no measurable negative environmental impacts associated with this Exemption, any alternatives would not provide any significant additional protection of the environment. The alternative to the exemption would be to require literal compliance with GDC 4.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in the Final Environmental Statement (Construction Permit) for Shearon Harris Unit 1.

Agencies and Persons Contacted

The NRC staff reviewed the applicants' request and applicable documents referenced therein that support this Exemption for Shearon Harris Unit 1. The NRC did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for this action. Based upon the environmental assessment, we conclude that this action will not have a significant effect on the quality of the human environment.

For details with respect to this action, see the requests for exemption dated January 14, April 19, and May 9, 1985. These documents, utilized in the NRC staff's technical evaluation of the exemption request, are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Wake County Public Library, Fayetteville Street, Raleigh, North Carolian 27601. The staff's technical evaluation of the request will be published with the exemption (if the exemption is granted) and will also be available for inspection at both locations listed above.

Dated at Bethesda, Maryland, this 21st day of May 1985.

For the Nuclear Regulatory Commission.

George W. Knighton,

Acting Assistant Director for Licensing, Division of Licensing.

[FR Doc. 85-12730 Filed 5-24-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-322-OL-3]

Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1); Hearing Order

An evidentiary hearing was scheduled to begin on June 4, 1985, in Hauppauge, New York on the adequacy of the Nassau Veterans Memorial Coliseum as a relocation center. By letter of May 17, 1985, all of the parties have proposed to the Board that the hearing now commence on Tuesday, June 25, 1985. For good cause shown, it is hereby ordered that the hearing will commence at 9:30 a.m. o'clock, local time, on June 25, 1985, in the Suffolk County Legislative Building, County Center Building 20, Veterans Memorial Highway, Hauppauge, New York.

It is so Ordered.

Dated at Bethesda, Maryland this 21st day of May, 1985.

For the Atomic Safety and Licensing Board.

Morton B. Margulies,

Chairman, Administrative Law Judge.

[FR Doc. 85-12731 Filed 5-24-85; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A, B, and C in the excepted service, as required by civil service rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Tracy Spencer, (202) 632-6817.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR Part 213 on May 9, 1985 (50 FR 19598). Individual authorities established or revoked under Schedules A, B, or C between April 1, 1985 and April 30, 1985 appear in a listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities will be published as of June 30 of each year.

Schedule A

The following exception is established:

Department of Justice

Not to exceed 500 positions of interpreters and language specialists, GS-1040-5/9, in the Immigration and Naturalization Service. Effective April 11, 1985.

Schedule B

The following exceptions are established:

National Endowment for the Humanities

One Humanist Administrator, Humanities Libraries Projects, Division of General Programs. Effective April 15, 1985.

One Humanist Administrator, Office of Preservation. Effective April 15, 1985.

One Director Office, of Preservation. Effective April 8, 1985.

One Humanist Administrator (Assistant Director), Research in Selected Areas/Regrant Programs, Division of Research Programs. Effective April 8, 1985.

Schedule C

The following exceptions are established:

Department of Agriculture

One Confidential Assistant to the Assistant Secretary for Governmental and Public Affairs. Effective April 3, 1985.

One Confidential Assistant to the Deputy Secretary. Effective April 3, 1985.

One Confidential Assistant to the Assistant Secretary for Governmental and Public Affairs. Effective April 15, 1985.

Two Confidential Assistants to the Secretary. Effective April 15, 1985.

One Confidential Assistant to the Assistant Secretary for Governmental and Public Affairs. Effective April 16, 1985.

One Assistant to the Deputy Secretary. Effective April 19, 1985.

One Staff Assistant to the Executive Assistant to the Secretary. Effective April 19, 1985.

One Private Secretary to the Administrator, Federal Grain Inspection Service. Effective April 24, 1985.

One Staff Assistant to the Assistant Secretary for Administration. Effective April 24, 1985.

One Director, Congressional and Public Affairs Division to the Manager, Federal Crop Insurance Corporation. Effective April 26, 1985.

One Confidential Assistant to the Executive Assistant to the Secretary. Effective April 30, 1985.

Department of Commerce

One Confidential Assistant to the Special Assistant to the Secretary. Effective April 5, 1985.

One Congressional Liaison Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective April 8, 1985.

One Confidential Assistant to the Director, Office of Business Affairs. Effective April 11, 1985.

One Confidential Assistant to the Director of Policy and Planning, National Oceanic and Atmospheric Administration. Effective April 12, 1985.

One Confidential Assistant to the Deputy Assistant Secretary for Trade Adjustment Assistance, International Trade Administration. Effective April 15, 1985.

One Confidential Assistant to the Deputy Assistant Secretary for Trade Information and Analysis, International Trade Administration. Effective April 15, 1985.

One Confidential Assistant to the Assistant Secretary for Communications and Information. Effective April 16, 1985.

One Special Assistant to the Director, Office of Minority Business Development Agency. Effective April 16, 1985.

One Confidential Aide to the Deputy Under Secretary for the Travel and Tourism Administration. Effective April 17, 1985.

One Confidential Assistant to the Under Secretary for Economic Affairs. Effective April 17, 1985.

One Deputy Director for Congressional Affairs to the Deputy Assistant Secretary for Congressional Affairs. Effective April 17, 1985.

One Special Assistant to the Director of Public Affairs, Office of the Secretary. Effective April 19, 1985.

One Confidential Assistant to the Deputy Assistant Secretary for Trade Information and Analysis, International Trade Administration. Effective April 24, 1985.

One Confidential Assistant to the Deputy Assistant Secretary for U.S. and Foreign Commercial Service, International Trade Administration. Effective April 30, 1985.

Department of Defense

One Private Secretary to the Assistant Secretary of Defense (Command, Control, Communications and Intelligence). Effective April 11, 1985.

One Staff Advisor to the Assistant to the President. Effective April 11, 1985.

One Private Secretary to the Deputy Under Secretary of Defense (Research and Advanced Technology). Effective April 12, 1985.

One Security Coordinator to the Assistant to the President/Director, Office of Special Support Services. Effective April 30, 1985.

Department of Education

One Personal Assistant to the Deputy Under Secretary for Management. Effective April 4, 1985.

One Personal Assistant to the Deputy Under Secretary for Management. Effective April 10, 1985.

One Personal Assistant to the Chief of Staff/Counselor to the Secretary. Effective April 17, 1985.

One Policy Advisor to the Director, Office of Educational Philosophy and Practice, Office of the Secretary. Effective April 17, 1985.

One Special Assistant to the Deputy Under Secretary for Planning, Budget and Evaluation. Effective April 17, 1985.

One Special Assistant to the Deputy Assistant Secretary for Higher Education Programs, Office of Postsecondary Education. Effective April 24, 1985.

One Special Assistant to the Secretary. Effective April 24, 1985.

Department of Energy

One Secretary (Confidential Assistant) to the Assistant Secretary for Defense Programs. Effective April 3, 1985.

One Secretary (Confidential Assistant) to the Secretary of Energy. Effective April 8, 1985.

Two Staff Assistants to the Special Assistant to the Secretary. Effective April 8, 1985.

One Secretary (Confidential Assistant) to the Special Assistant to the Secretary. Effective April 9, 1985.

One Secretary (Confidential Assistant) to the Director, Office of Minority Economic Impact. Effective April 11, 1985.

One Legal Advisor to a Member of the Commission, Federal Energy Regulatory Commission. Effective April 22, 1985.

Department of Health and Human Services

One Confidential Assistant to the Commissioner, Administration for Children, Youth and Families. Effective April 3, 1985.

One Director of Public Affairs to the Regional Director, San Francisco, California. Effective April 3, 1985.

One Assistant to the Secretary for Special Programs. Effective April 19, 1985.

One Confidential Staff Assistant to the Senior Advisor to the Secretary. Effective April 19, 1985.

One Confidential Assistant to the Secretary. Effective April 29, 1985.

Department of Housing and Urban Development

One Staff Assistant to the Deputy Assistant Secretary for Program Management, Office of the Assistant Secretary for Community Planning and Development. Effective April 8, 1985.

Department of Interior

One Secretary (Typist) to the Secretary. Effective April 19, 1985.

Department of Justice

One Secretary (Stenographer) to the Attorney General. Effective April 9, 1985.

One Staff Assistant to the Attorney General. Effective April 9, 1985.

One Staff Assistant to the Counselor to the Attorney General. Effective April 9, 1985.

One Special Assistant to the Director of Public Affairs. Effective April 24, 1985.

Department of Labor

One Secretary (Typist) to the Solicitor of Labor. Effective April 26, 1985.

One Special Assistant to the Administrator, Pension and Welfare

Benefit Programs. Effective April 26, 1985.

One Special Assistant to the Assistant Secretary for the Occupational Safety and Health Administration. Effective April 26, 1985.

One Staff Assistant to the Administrator, Pension and Welfare Benefit Programs. Effective April 26, 1985.

One Staff Assistant to the Deputy Under Secretary for Legislative Affairs. Effective April 26, 1985.

Department of State

One Secretary (Typist) to the Assistant Secretary for Legislative and Intergovernmental Affairs. Effective April 4, 1985.

One Special Assistant to the Ambassador, U.S. Representative, Organization of American States. Effective April 24, 1985.

One Foreign Affairs Officer to the Assistant Secretary for European and Canadian Affairs. Effective April 29, 1985.

Department of Transportation

One Special Assistant to the Assistant Secretary for Public Affairs. Effective April 4, 1985.

One Special Assistant to the Assistant Administrator for Public Affairs, Federal Aviation Administration. Effective April 16, 1985.

One Confidential Staff Assistant to the Deputy Administrator, Federal Aviation Administration. Effective April 24, 1985.

Department of Treasury

One Confidential Assistant to the Assistant Secretary, Policy Planning and Communications. Effective April 24, 1985.

One Deputy Assistant Secretary to the Assistant Secretary, Business and Consumer Affairs. Effective April 24, 1985.

One Deputy Assistant Secretary to the Assistant Secretary, Policy Planning and Communications. Effective April 24, 1985.

One Special Assistant to the Deputy Assistant Secretary (Administration) for Departmental Management. Effective April 24, 1985.

One Staff Assistant to the Deputy Secretary. Effective April 24, 1985.

One Staff Assistant to the Deputy Assistant Secretary (Administration) for Operations. Effective April 30, 1985.

Consumer Product Safety Commission

Two Public Affairs Specialists to the Chairman. Effective April 8, 1985.

One Special Assistant (Legal) to the General Counsel. Effective April 9, 1985.

Environmental Protection Agency

One Special Assistant to the Regional Administrator, Region VI. Effective April 3, 1985.

Equal Employment Opportunity Commission

One Attorney Advisor to the Commissioner. Effective April 15, 1985.

Federal Labor Relations Authority

One Special Assistant to the General Counsel. Effective April 11, 1985.

International Trade Commission

One Special Assistant to the Commissioner. Effective April 17, 1985.

National Endowment for the Arts

One Special Assistant (Development) to the Chairman. Effective April 15, 1985.

National Endowment for the Humanities

One Staff Assistant to the Deputy Chairman. Effective April 15, 1985.

Office of Personnel Management

One Confidential Assistant to the General Counsel. Effective April 22, 1985.

One Staff Assistant to the Deputy Assistant Director for Executive Administration. Effective April 26, 1985.

Small Business Administration

One Special Assistant to the Director, Office of Women's Business Ownership. Effective April 8, 1985.

One Special Assistant to the Director, Office of Women's Business Ownership. Effective April 22, 1985.

One Special Assistant to the Regional Administrator, Atlanta, Georgia. Effective April 22, 1985.

U.S. Information Agency

One Special Assistant to the Associate Director for Education and Cultural Affairs. Effective April 17, 1985.

United States Tax Court

Three Secretaries (Confidential Assistants) to a Judge. Effective April 29, 1985.

United States Trade Representative

On Confidential Assistant to the Executive Assistant to the United States Trade Representative. Effective April 8, 1985.

Office of Personnel Management.

Loretta Cornelius,

Acting Director.

[FR Doc. 85-12685 Filed 5-24-85; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-22052; SR-CBOE-85-08]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change

The Chicago Board Options Exchange, Inc. ("CBOE") submitted on March 15, 1985, copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder, to provide that, in general, market orders may not be placed on the order book after the relevant options series has been called for opening and the Order Book Official ("OBO") may refuse to accept limit orders under certain circumstances.

Notice of the proposed rule change together with its terms of substance was given by the issuance of a Commission release (Securities Exchange Act Release No. 21912, March 29, 1985) and by publication in the **Federal Register** (50 FR 13900, April 8, 1985). No comments were received with respect to the proposed rule change.

The CBOE states that the purpose of the proposed rule change is to prevent the "dumping" of public customer orders into the book, a practice which occurs during periods of unusually active trading and rapidly changing prices. According to the CBOE, this practice can cause severe backlogs in handling public customer orders and has led to trading halts. The rule change is designed to prevent these occurrences by, first, prohibiting the entry into the order book of a market order in any option series which already has been called during opening rotation, and second, authorizing an OBO to close the book to, or restrict, limit orders when the OBO determines that such orders will impede trading. The CBOE states that the rule change is consistent with the Act, particularly section 6(b)(5) thereof.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a self-regulatory organization and, in particular, the requirements of section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85-12770 Filed 5-24-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22057; File No. SR-MSRB-85-13]

Self-Regulatory Organizations; Proposed Rule Change by the Municipal Securities Rulemaking Board; Relating to Recordkeeping, Record Preservation, Designation of Persons Responsible for Maintenance of Books and Records, and Supervision

The Municipal Securities Rulemaking Board on May 16, 1985, filed with the Securities and Exchange Commission pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

A. The Municipal Securities Rulemaking Board (the "Board") is filing herewith amendments to Board rules G-8 on recordkeeping, G-9 on record preservation, G-10 on designation of persons responsible for maintenance of books and records, and G-27 on supervision (hereafter referred to as "the proposed rule change"). The text of the proposed rule change is as follows:[1]

Rule G-8. Books and Records to be Made by Municipal Securities Brokers and Municipal Securities Dealers

(a) Description of Books and Records Required to be Made. Except as otherwise specifically indicated in this rule, every municipal securities broker and municipal securities dealer shall make and keep current the following books and records, to the extent applicable to the business of such municipal securities broker or municipal securities dealer:

(i) through (xiii) No change.

(xiv) Designation of Persons Responsible for Recordkeeping. A record of all designations of persons responsible for the maintenance and preservation of books and records as required by rule G-27(b)(ii).

(b) through (g) No change.

Rule G-9. Preservation of Records

(a) Records to the Preserved for Six Years. Every municipal securities broker and municipal securities dealer shall preserve the following records for a period of not less than six years:

(i) through (vi) No change.

(vii) *the record, described in rule* G-27(b)(ii), of each person designated as responsible for the maintenance and preservation of books and records, provided that such record shall be preserved for the period of designation of each person designated and for at least six years following any change is such designation.

(b) through (g) No change.

Rule G-10. **[**Designation of Persons Responsible for Maintenance and Preservation of Books and Records.**]**

[Every municipal securities broker and municipal securities dealer shall designate one or more associated persons who are municipal securities prinicipals or general securities principals as responsible for the maintenance and preservation of the books and records required to be maintained and preserved by rules G-8 and G-9 of the Board. In the case of a municipal securities dealer which is not a bank dealer, a financial and operations principal shall be one of the persons so designated. A record of every such designation shall be kept, showing the name, title and business address of the person or persons so designated and the date of designation, and such record shall be preserved during the period of such designation and for at least six years following any change in such designation.**]**

[delete whole rule; reserve rule number G-10 for future rulemaking**]**

Rule G-27. Supervision

(a) No change.

(b) *(i)* No change in text.

(ii) Designation of Persons Responsible for Recordkeeping. Each municipal securities broker and municipal securities dealer shall designate one or more associated persons as responsible for the maintenance and preservation of the books and records required to be maintained and preserved by rules G-8 and G-9 of the Board. Each persons so designated shall be a municipal securities prinicipal, a general securities principal, or a financial and operations principal. In the case of a municipal securities dealer which is not a bank dealers, a financial and operations principal shall be one of the persons so designated. A record of every such designation shall be kept, showing the name, title and business address of the person or persons so designated and the date of designation, and such record shall be preserved during the period of such designation and for at least six years following any change in such designation.

(c) No change.

B. Not applicable.

C. Not applicable.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Rule G-10 requires that a municipal securities broker or dealer designate one or more persons to be responsible for the maintenance and preservation of the records required to be maintained and preserved under rules G-8 and G-9. The rule also specifies that a record be kept showing the name, title, and business address of each person designated under the rule and that this record be kept during the period of the designation and for all at least six years thereafter. The purposed rule change would incorporate the provisions of rule G-10 into rule G-27, the Board's rule on general supervisory responsibilities. This would consolidate all of the Board's requirements relating to the designation of supervisory duties into rule G-27. The language of the proposed amendment to rule G-27 also reflects technical drafting changes which clarify the intent of the current rule G-10. Rule G-10 is being withdrawn by the Board, and the rule number will be reserved for future rulemaking.

In addition to the incorporation of rule G-10 into rule G-27, the proposed rule change also includes proposed amendments that would add to rules G-8 and G-9, the Board's general rules on recordkeeping and preservation, cross-references to the recordkeeping and record preservation requirements currently found in rule G-10. These cross-references will allow a person reviewing the Board's recordkeeping and record preservation rules to be aware of all of the Board's requirements with regard to the maintenance and preservation of records.

(2) The proposed rule change is adopted pursuant to section 15B(b)(2)(C) of the Securities Exchange Act of 1934, as amended, ("the Act") which authorizes the Board to adopt rules designed to prevent fraudulent and

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[1] Italics indicate new language; [brackets] indicate deletions.

manipulative acts and practices, to foster cooperation and coordination with persons engaged in regulating transactions in municipal securities, and, in general, to protect investors and the public interest, and section 15B(b)(2)(G) of the Act, which authorizes the Board to adopt rules to prescribe records to be made and kept by municipal securities brokers and dealers and the periods for which such records must be kept.

B. Self-Regulatory Organization's Statement of Burden of Competition

The proposed rule change is technical in nature and will not alter the substantive requirements of any of the Board's current rules. The Board, therefore, believes that the proposed rule change will not impose and burden on competition.

C. Self-Regulatory Organization's Statement on Comments of the Proposed Rule Change Received from Members, Participants, or Other

The Board has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of teh date of publication of this notice in the **Federal Register** on within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by June 18, 1985.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 20, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-12772 Filed 5-24-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22065; File No. SR-NASD-85-10]

Self-Regulatory Organization; Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to NASDAQ-Financial Index ™ Options

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(b)(1), notice is hereby given that on May 6, 1985, the National Association of Securities Dealers, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

In Securities Exchange Act Release No. 19264 (November 22, 1982), the Commission approved rule changes of certain self-regulatory organizations relating to the listing and trading of standardized put and call option contracts on various stock indices. In the Release, the Commission stated "each index that will underlie an options contract must be reviewed separately as a proposed rule change pursuant to Rule 19b-4 under the [Securities Exchange] Act before trading in an option based on that index may commence." The purpose of this proposed rule change is to permit that National Associations of Securities Dealers, Inc. ("NASD") to include in the NASDAQ System options on the stock index described in Item 3.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Section (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to permit the NASD to offer standardized put and call options on the NASDAQ-Financial Index ™. Options on the NASDAQ-Financial Index ™ will be traded within the general framework of NASD rules proposed for the trading of index options in SEC File No. Sr-NASD-80-10.

Description of the NASDAQ-Financial Index ™

The NASDAQ-Financial Index ™ will be composed of securities of 100 of the largest operating financial companies, consisting of banks, savings and loan institutions, insurance companies, etc., included in the NASDAQ National Market System ("NASDAQ/NMS") as of February 1, 1985, subject to the condition that not more than one issue of a particular company will be included in the Index, and subject to the criteria that the minimum market value of the public float of the issue is $100 million. Both foreign and domestic issues will be included. In the event a security is deleted from the NASDAQ-Financial Index ™, the largest financial NASDAQ/NMS issues not then in the Index, which meets all applicable qualifications, will be substituted. the NASD will establish procedures for, and controls over, substitutions of securities.

The NASDAQ-Financial Index ™ is market value weighted. The representation of each security in the Index is proportional to its last sale price times the total number of shares outstanding, in relation to the total market value of the Index. The level of the Index is calculated as follows:

NASDAQ-Financial Index Level equals Current Market value divided by Adjusted Base Period Market Value times 250

Adjusted Base Period equals Current Market Value After Adjustments divided by Current Market Value Before Adjustments times Previous Base Period Market Value

The numeric value level of the NASDAQ-Financial Index ™ was established at 250 prior to the opening of the market on February 1, 1985. The level of the NASDAQ-Financial Index ™ will only change as a result of price changes occurring between the opening and closing of the market. Adjustments for securities being added to or deleted from the NASDAQ-Financial Index ™, or capitalization changes or adjustments, will take place during the system maintenance process which occurs after the market has closed. These adjustments will result in value changes to the current market value and adjusted base period market value, but will not in and of themselves alter the level of the NASDAQ-Financial Index ™.

Stock splits and stock dividends are likewise adjusted for during the system maintenance process. The system makes a price adjustment, however, to account for the increased number of shares outstanding from such an action with the result being that the currrent market value does not change.

In the case of cash dividends, no system adjustment is made. The NASDAQ-Financial Index ™ formula relies on market forces to determine the level of the Index. Neither the current market value nor the adjusted base period market value are adjusted to reflect cash dividends.

The NASD will begin immediately to disseminate daily closing calculations of the NASDAQ-Financial Index ™ on Level 2 and Level 3 NASDAQ terminals via the NASDAQ Frame. It will also attempt to have this information carried on the Associated Press and other news services. When trading in NASDAQ-Financial Index ™ Options commences, the NASD will calculate the NASDAQ-Financial Index ™ and disseminate the Index value to NASDAQ Level 1 vendors at one-minute intervals.

The base value of the NASDAQ-Financial Index" on February 1, 1985 was 250.

Terms of NASDAQ-Finanacial Index" Option Contract

The NASDAQ-Financial Index" Option will be based on the NASDAQ-Financial Index" and will utilize an index multiplier of $100. The unit of trading will be determined by multiplying $100 times the current index value. The unit of trading as of February 1, 1985, therefore, would be $25,000 (250 x $100).

Exercise prices for the NASDAQ-Financial Index" Option will be set at five point intervals in terms of the NASDAQ-Financial Index", e.g., 250, 255, 260. Options contracts will have up to four consecutive monthly expirations.

Premiums on the NASDAQ-Financial Index" Options will be expressed in terms of dollars and fractions per unit of the index. Each point will represent $100 dollars. The minimum fraction will be 1/16th which will represent $6.25.

The NASD has developed rules permitting it to establish position and exercise limits for market index options. Those rules have been submitted to the Commission as proposed amendments to Appendix E under Article III, Section 33 of the NASD's Rules of Fair Practice in File No. SR-NASD-80-10. The NASD expects to amend those rules to provide that limits established will not be in excess of a dollar equivalent of $300 million, as determined by multiplying the current index value times the current index multiplier times the position limit. On the basis of the NASDAQ-Financial Index" value as of February 1, 1985, a position limit of 12,000 contracts would equal $300 million.

The NASD has proposed rules governing the trading of NASDAQ-Financial Index" Options which are believed to be comparable to those established by other options self-regulatory organizations for trading in broad-based index options. Those amendments are pending before the Commission in File No. SR-NASD-80-10.

The statutory basis for the proposed rule change is found is section 15A(b)(6) of the Securities Exchange Act of 1934, as amended (the "Act") in that approval of the proposed rule change will serve to "perfect the mechanism of a free and open market and a national market system."

B. Self-Regulatory Organization's Statement on Burden on Competition

The Association believes that the proposed rule change does not impose any burden on competition not necessary or appropriate in furtherance of purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period: (1) As the Commission may designate up to 90 days of such date if it finds such longer period as to be appropriate and published its reasons for so finding on (2) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552 will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of such filing will also be available and copying at the principal office of the above-mentioned self-regulatory organization located at 1735 K Street, NW., Washington, D.C. 20006. All submissions should refer to the file number in the caption above and should be submitted by June 18, 1985.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 22, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-12771 Filed 5-24-85; 8:45 am]

BILLING CODE 8010-01-M

[File No. 81-719]

Application and Opportunity for Hearing; Associated Wholesalers, Inc.

May 21, 1985.

Notice is hereby given that, Associated Wholesalers, Inc. (the

"Applicant"), a membership agricultural cooperative, has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended, (the "Exchange Act") for an exemption from certain of the reporting requirements under Sections 13 and 15(d) of the Act. In the absence of an exemption, Applicant would be required to file periodic reports to the standards specified by Forms 10–K, 10–Q and 8–K under the Exchange Act. Applicant believes that the information required by those forms is not germane to the business of a cooperative, and is of little use to its security holders. Accordingly, Applicant seeks an exemption which would eliminate the Form 10–Q requirement, and permit the filing of modified reports on Forms 8–K and 10–K as outlined in the application.

For a more detailed statement of the information presented, all persons are referred to the application, which is on file at the offices of the Commission in the Public Reference Room, 450 Fifth Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person may submit to the Commission in writing, not later than June 17, 1975, his views or any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after that date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85–12773 Filed 5–24–85; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–23699; 70–7113]

Central and South West Corp.; Proposal To Create Credit Subsidiary; Exception From Competitive Bidding

May 21, 1985.

Central and South West Corporation ("CSW"), 2121 San Jacinto Street, Dallas, Texas 75266–0164 a registered holding company, has filed an application-declaration with this Commission pursuant to Sections 6, 7, 9, 10 and 12 of the Public Utility Holding Company Act of 1935 ("ACT") and Rules 45 and 50 thereunder.

CSW proposes to organize a new corporation, CSW Credit, Inc. ("Credit") to be wholly owned by CSW. The initial purpose of Credit will be the purchase of accounts receivable (factoring) of its operating companies, Central Power and Light Company, Public Service Company of Oklahoma, Southwestern Electric Power Company, West Texas Utilities Company and Transok, Inc., at a discount and the financing of these purchases with debt. It is anticipated that all activities of Credit will be directed by existing CSW personnel or operating company personnel.

Credit will be incorporated in Delaware with an authorized capital of 1,000 shares of common stock without par value. CSW will subscribe to all of Credit's common stock at a price of $1.00 per share. Credit will be leveraged at a debt-equity ratio anticipated to average 80% debt and 20% equity.

CSW presently intends that Credit will initially obtain the requisite funds for the accounts receivable financing transactions pursuant to lines of credit or loan agreements in an aggregate amount of up to $320 million which borrowings will be negotiated and obtained on a non-recourse basis to CSW and its subsidiaries, other than Credit, as required to fund accounts receivable transactions. CSW will provide additional capital through equity contributions in an amount up to $80 million to maintain the desired debt-equity ratio for Credit. In no event, without further authority from the Commission, would the aggregate of borrowings by Credit exceed $320 million or equity contributions in Credit by CSW exceed $80 million. Authorization to incur such levels of capitalization and borrowings is requested through December 31, 1986.

Credit's borrowings will be secured by an assignment of accounts receivable purchased by Credit. The specific terms and conditions of these borrowings by Credit will be subject to negotiation with the particular lender or lenders. However, without prior approval of the Commission, such terms and conditions will be no less favorable than the following: (1) The principal amount of such borrowings from time to time outstanding shall bear interest at the prime commercial rate of the lending bank; (2) Credit will be required either (a) to keep an amount equal to 5% of the commitment amount in the form of a depository relationship with the lending bank or (b) to pay the lending bank a commitment fee of ½% per annum of the amount of the commitment of such lending bank; (3) Credit will be allowed to prepay at any time all or any part of the outstanding principal amount of such borrowings without penalty; (4) no such borrowings would have a term in excess of 10 years; and (5) the other terms and conditions of the borrowing will be substantially equivalent to those authorized with respect to the CSW Money Pool (File No. 70–6725). Credit's interest charges to the operating companies used in the carrying charge will always be less than the "prime rate of interest" as that term is normally used. After an appropriate period of experience, Credit intends to apply for a commercial paper rating which will enable it to sell commercial paper.

Credit will purchase the accounts receivable from the respective operating companies on the day that such operating company prepares the bill and will pay such operating company a percentage of the total amount of bills rendered in any given day. Such percentage or discount is designed to provide the requisite earnings coverage for Credit's indebtedness. The administrative expenses of Credit's operation (which are estimated to be less than $25,00 annually) will not be included in the discount and will therefore be borne by Credit. The expenses anticipated for Credit are interest expenses, bad debt charge-offs and income tax expenses. The discount factor will be established based upon the formula of "carrying charge" plus "bad debt experience." The "carrying charge" will be computed by multiplying the "projected days outstanding for receivables" by the "previous quarter carrying rate" with "carrying rate" defined as "interest cost" plus "net income requirement." "Bad debt experience" for purposes of the formula is defined as the "actual net charge-offs for 12 months ended prior quarter" divided by "actual revenues for 12

months ended prior quarter." The discount factor will be recomputed at the end of every calendar quarter using the most recent equity return for each of the four electric operating subsidiaries. Also included in the discount will be a return on the 20% equity invested in Credit equal to the weighted average return on common equity most recently allowed by the four state regulatory commissions having jurisdiction over CSW's four electric operating subsidiaries. Based on such weighted average and the capitalization as of March 31, 1985, such return would be 15.76%. Credit initially anticipates financing all of the operating companies accounts receivable subject to the limits relating to the capitalization of and borrowings by Credit specified herein.

CSW and Credit stipulate that they will never bring suit against any CSW operating company to recover uncollectable account receivables based on the operating company's undertaking to use their "best efforts" to collect those receivables.

CSW and Credit believe that the proper rate treatment for factoring of CSW System accounts receivable should be a credit to the cash working capital allowance which could result in a negative working capital allowance and the accounts receivable discount be treated as a cost of service item and CSW and Credit will stipulate to such rate treatment in any future rate proceeding, if requested. CSW acknowledges that if the Commission enters an order authorizing the factoring or receivables, that order is not binding in any rate on the issue of treatment of the effects of factoring. The state commissions and the Federal Energy Regulatory Commission will have the complete ability to treat the factoring in any manner they choose for any rate case before them. CSW and Credit, however, acknowledge that in the event it is determined that factoring is not beneficial to CSW ratepayers, CSW will raise no objections if the full effects of the factoring transactions are ignored for rate-making purposes.

Credit will maintain separate financial records and detailed supporting records, including profit/loss statements (as does every other CSW subsidiary), which will be available to any proper federal regulatory agency or state regulatory agency for review to determine the proper effect of Credit's factoring of receivables on any operating company's revenue requirements. Additionally, Credit will allow any such agency to review Credit's bank or other lending arrangements as they pertain to the revenue requirements of any operating subsidiary.

As for all CSW's subsidiaries (other than electric operating companies and Transok, Inc.) accounting matters generally, the accounting staff of CSW Services, Inc. will be responsible for record keeping and maintaining audit procedures which are in compliance with generally accepted accounting principles and insure the integrity of all subsidiaries, including Credit's financial statements. As is the case for all CSW companies, Credit's financial statements will be audited annually by CSW's independent outside auditor.

There is no contractural requirement that any CSW subsidiary continue factoring for a specified period of time and any CSW subsidiary is free at any time to terminate its relationship with CSW Credit for all future factoring transactions.

CSW states that the proposed transactions will result in benefits to both the operating companies (as a result of reduced capitalization requirements) and to CSW shareholders (as the result of net earnings of Credit).

Since the borrowings undertaken by Credit will fluctuate in relation to the amount of accounts receivable outstanding on any given day, CSW has requested that the financings of Credit be excepted from the requirements of Rule 50 as inappropriate.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by June 14, 1985, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85-12768 Filed 5-24-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14528; File No. 812-6071]

Indiana Community Business Credit Corp.; Application and Opportunity for Hearing

May 21, 1985.

Notice is hereby given that Indiana Community Business Credit Corporation (the "Applicant"), One North Capitol Avenue, Suite 700, Indianapolis, Indiana 46204, an Indiana corporation proposing to elect to operate as a "credit corporation" under the proposed Indiana Business Development Credit Corporation Law (the "Proposed Act") following its enactment, filed an application on March 6, 1985, pursuant to Section 6(c) of the Investment Company Act of 1940 (the "Act") for an order exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below, and to the Act for a statement of the relevant provisions thereof.

Applicant represents that the Proposed Act and Applicant's qualification thereunder are an integral part of the economic development package of the office of Governor of the State of Indiana. Applicant states that its purposes will be mandated by statute which will be to: assist, promote, encourage, develop and advance the business prosperity and economic welfare of Indiana; rehabilitate existing Indiana business and industry; stimulate and assist business expansion primarily through the making of loans and other extensions of credit to small business concerns; promote the business development and maintain the economic stability of Indiana; provide maximum employment opportunities; encourage thrift and improve the standard of living of the citizens of Indiana; and furnish money and credit to approved and deserving applicants which are otherwise unable to obtain such credit. Applicant will have the power to make loans, invest in securities, own property and acquire and operate businesses. It is anticipated that Applicant will provide financing only to entities doing business in Indiana.

The application states that Applicant will operate as a for-profit corporation with two classes of voting securityholders, shareholders and members ("Members"). Applicant's voting securities will be distributed in an offering made only to banks authorized to do business in Indiana. Applicant will offer 1,500 common shares, without par value, at a price of

$2,000 per share. Shareholders will have one vote for each share held, and, as a class, will elect two of Applicant's directors. To become a Member, a bank must enter into a Loan and Membership Agreement (the "Agreement") with the Applicant, obligating the bank to extend a line of credit to Applicant in a maximum amount of 1.5% of the bank's capital and capital surplus. The terms and conditions of the Agreement, including the interest to be paid on amounts borrowed, will be determined by the Applicant's board of directors. The application indicates that each Member will have at least one vote, but Members with large line of credit obligations may be entitled to additional votes. The Member's interests will be represented by revolving credit notes of the Applicant in a face amount equal to the Member's maximum line of credit obligations.

The application states that subscribers for the shares or revolving credit notes will be required to represent that they are acquiring the securities for purposes of investment and not for resale. The securities will be subject to substantial restrictions on transfer, and no active trading market is expected to develop for either class of Applicant's securities.

Applicant concedes that it might meet the definition of an investment company because it expects that its loan will be represented by notes or other evidences of indebtedness issued by its borrowers, and the value of such notes acquired by Applicant may exceed 40% of the value of Applicant's total assets. Applicant contends, however, that its requested exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes and policies of the Act.

In support of that assertion, although Applicant will operate as a for-profit corporation, it does not anticipate paying dividends on its shares, and the return received by the Members on amounts loaned to Applicant under the revolving credit notes will be substantially below that which the Members could otherwise obtain on a similar loan. Additionally, even though the application states that Applicant will be exempt from The Indiana Securities Law and The Indiana Financial Institutions Act, it is claimed that the Applicant will be subject to substantial governmental regulation. The application represents that the Director of the Department of Financial Institutions will conduct an annual examination of Applicant to determine its financial condition. Also, Applicant is required to make a report of its condition to the Governor and Indiana General Assembly prior to March 2 of each year. The application further states that the Treasurer of the State and the Director of the Department of Financial Institutions will serve as directors of the Applicant.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than June 14, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons, for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85-12769 Filed 5-24-85; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 22-A]

Delegation of Authority; Assistant Administrator for Administration

Due to Agency reorganization Delegation of Authority No. 15, Revision 2 (47 FR 5392) to the Assistant Administrator for Administration (AA/A) was revoked. The authority therein (except Paperwork Reduction Act authority delegated only to the AA/A) and as redelegated in delegation document No. 15-A, Revision 2 (47 FR 11583), was transferred to the Associate Deputy Administrator for Management and Administration in Delegation of Authority No. 22 and is herein redelegated.

Delegation of Authority No. 22-A reads as follows:

(a) Pursuant to the authority delegated by the Administrator to the Associate Deputy Administrator for Management and Administration in Delegation of Authority No. 22 (50 FR 4293), and Amendment 1 to that delegation published and effective simultaneously with this document, the following authority is hereby delegated to the Assistant Administrator for Administration as indicated herein:

(i) *Administrative and Procurement Services.*

(A) To contract for supplies and services for the Agency pursuant to Chapter 4 of Title 41,U.S.C., subject to limitations contained in section 257 (a) and (b) of that chapter.

(B) To contract for printing services for the Agency pursuant to Chapter 4 of Title 41, U.S.C., as amended, subject to the limitations contained in section 257 (a) and (b) of the chapter and pursuant to Title 44, U.S.C.

(C) To execute grants, cooperative agreements, and contracts authorized by Federal Statute subject to the limitations contained at 31 U.S.C., section 6301 et seq. and OMB Circulars A-110, A-102, A-21, and A-122.

(D) To be accountable for Contract Officers issued a Certificate of Appointment in accordance with Federal Acquisition Regulations (FAR), Subparts 1.601 through 1.604.

(E) To execute ratifications of contracts and small purchases.

(F) To issue work authorizations and telephone orders.

(G) To originate and certify commercial bills of lading for payment of transportation charges in accordance with FPMR 101-41.304.2.

(H) To issue Government bills of lading.

(ii) *Claims Under the Federal Tort Claims Act.* To give final approval on actions resulting from any claims subject to the provisions of 28 U.S.C. 2672.

(iii) *Use of Seal of the Small Business Administration.* To certify true copies of any books, records, papers, or other documents on file with the Small Business Administration; to certify extracts from such material; to certify the non-existence of records on file; and to cause the Seal of the Small Business Administration to be affixed to all such certifications.

(iv) *Paperwork Reduction Act.* To serve as Senior Agency Official pursuant to 44 U.S.C. 3506.

(b) The specific authorities delegated herein, except (a)(iv), may be redelegated.

(c) All authority delegated herein may be exercised by any SBA employee designated as acting in that position with the exception of Contracting and Agreement Officers who are warranted by name. Such warrants do not authorize "acting" or any substitutions.

Effective Date: Upon publication in the **Federal Register.**

Dated: May 20, 1985.

Robert A. Turnbull,

Associate Deputy Administrator for Management and Administration.

[FR Doc. 85-12674 Filed 5-24-85; 8:45 am]

BILLING CODE 8025-01-M

[Delegation of Authority No. 22; Amdt. 1]

Delegation of Authority; Associate Deputy Administrator for Management and Administration

Delegation of Authority No. 22 (50 FR 4293) is hereby amended to grant authority to execute 7(j) grants, cooperative agreements, and contracts (formerly delegated to the Associate Administrator for Minority Small Business and Capitol Ownership Development in Delegation of Authority No. 16 and as redelegated in No. 16-A); to add Contract Officer Accountability authority; and to add contract and small purchase ratification authority.

Accordingly, Delegation of Authority No. 22 is amended by changing paragraph (a)(1)(iii) and adding paragraphs (a)(1)(iv) and (a)(1)(v) as follows:

(a) * * *

(1) *Procurement and Federal Assistance services.*

(iii) To execute grants, cooperative agreements, and contracts authorized by Federal Statute subject to the limitations contained at 31 U.S.C., section 6301 et seq. and OMB Circulars A-110, A-102, A-21, and A-122.

(iv) To be accountable for Contract Officers issued a Certificate of Appointment in accordance with Federal Acquisition Regulations (FAR), Subpart 1.601 through 1.604.

(v) To execute ratifications of contracts and small purchases.

* * * * *

Effective Date: Upon publication in the **Federal Register.**

Dated: April 22, 1985.

James C. Sanders,

Administrator.

[FR Doc. 85-12673 Filed 5-24-85; 8:45 am]

BILLING CODE 8025-01-M

[Delegation of Authority No. 22-B]

Delegation of Authority; Comptroller

Delegation of Authority No. 21 to the Comptroller (48 FR 51560), and so redelegated (48 FR 55793), was revoked with authority therein transferred to the Associate Deputy Adminisfrator for Management and Administration in Delegation of Authority No. 22 and is herein redelegated.

Delegation of Authority No. 22-B reads as follows:

(a) Pursuant to the authority delegated by the Administrator to the Associate Deputy Administrator for Management and Administration in Delegation of Authority No. 22 (50 FR 4293), the following authority is hereby redelegated to the Comptroller as indicated herein:

(1) *Comptroller.*

(i) *Financial Management.* To assign, endorse, transfer, deliver or release (but in all cases without representation, recourse or warranty) promissory notes, bonds, debentures, and other obligating instruments on all loans or investments made or serviced by SBA when paid in full or when transferred to the Department of Justice for liquidation.

(b) The specific authorities delegated herein may be redelegated.

(c) All authority delegated herein may be exercised by any employee designated as acting in that position.

Effective date: Upon publication in the **Federal Register.**

Dated: May 20, 1985.

Robert A. Turnbull,

Associate Deputy Administrator.

[FR Doc. 85-12676 Filed 5-24-85; 8:45 am]

BILLING CODE 8025-01-M

[Delegation of Authority No. 22-A1]

Delegation of Authority; Office of Administration

Assistant Administrator for Administrator authority, Delegation of Authority No. 22-A, is herein redelegated.

Delegation of Authority No. 22-A1 reads as follows:

(a) Pursuant to the authority delegated by the Associate Deputy Administrator for Management and Administration in Delegation of Authority No. 22-A published and effective simultaneously with this document, the following authority is hereby delegated to the specific positions as indicated herein:

(1) Deputy Assistant Administrator for Administration.

(i) Administrative and Procurement Services.

(A) To contract for supplies and services for the Agency pursuant to Chapter 4 of Title 41, U.S.C., subject to limitations contained in section 257 (a) and (b) of that chapter.

(B) To contract for printing services for the Agency pursuant to Chapter 4 of Title 41, U.S.C. as amended, subject to the limitations contained in section 257 (a) and (b) of the chapter and pursuant to Title 44, U.S.C.

(C) To execute grants, cooperative agreements, and contracts authorized by Federal Statute subject to the limitations contained at 31 U.S.C. section 6301 et seq. and OMB Circulars A-110, A-102, A-21, and A-122.

(D) To be accountable for Contract Officers issued a Certificate of Appointment in accordance with Federal Acquisition Regulations (FAR), Subparts 1.601 through 1.604.

(E) To execute ratifications of contracts and small purchases.

(ii) *Claims Under the Federal Tort Claims Act.* To give final approval on actions resulting from any claims subject to the provisions of 28 U.S.C. 2672.

(iii) *Use of Seal of the Small Business Administration.* To certify true copies of any books, records, papers, or other documents on file with the Small Business Administration: to certify extracts from such material; to certify the non-existance of records on file; and to cause the Seal of the Small Business Administration to be affixed to all such certifications.

(2) *Director, Office of Administrative Services.*

(i) *Administrative Services.*

(A) To issue work authorization and telephone orders.

(B) To originate and certify commercial bills of lading for payment of transportation charge in accordance with FPMR 101-41.304.2.

(C) To issue Government bills of lading.

(3) *Chief, Space Management Branch.* To issue work authorizations and telephone orders.

(4) *Chief, Supply Section, OAS.*

(i) To originate and certify commercial bills of lading for payment of transportation charges in accordance with FPMR 101-41.304.2.

(ii) To issue Government bills of lading.

(5) *Director, Office of Procurement and Grants Management.*

(i) *Procurement Services.*

(A) To contract for supplies and services for the Agency pursuant to Chapter 4 of Title 41, United States Code, subject to the limitations contained in section 257 (a) and (b) of that Chapter.

(B) To contract for printing services for the Agency pursuant to Chapter 4 of Title 41, U.S.C., as amended, subject to the limitations contained in section 257 (a) and (b) of that Chapter and pursuant to Title 44, U.S.C.

(C) To execute grants, cooperative agreements, and contracts authorized by Federal Statute subject to the limitations contained at 31 U.S.C., section 6301 et

seq. and OMB Circulars A–110, A–102, A–21, and A–122.

(D) To be accountable for Central Office Contract Officers issued a Certificate of Appointment in accordance with Federal Acquisition Regulations (FAR), Subparts 1.601 through 1.604.

(E) To execute ratifications of contracts and small purchases.

(F) To originate and certify commercial bills of lading for payment of transportation charges in accordance with FPMR 101–41.304.2.

(G) To issue Government bills of lading.

(H) Monetary limitation: Unlimited.

(6) *Contracting Officers, Contracts Branch and Small Purchases Branch* (Contracting Officers are appointed by the Assistant Administrator for Administration using Certificates of Appointment).

(i) To contract for supplies and services for the Agency pursuant to Chapter 4 of Title 41, United States Code, subject to the limitations contained in section 257 (a) and (b) of that Chapter.

(ii) To contract for printing services for the Agency pursuant to Chapter 4 of Title 41, U.S.C., as amended, subject to the limitations contained in section 257 (a) and (b) of that Chapter and pursuant to Title 44, U.S.C.

(iii) To execute ratifications of contracts and small purchases.

(iv) Monetary limitations: Contracting Officers up to $500,000.

(7) *Grants Management Officers, Grants Management Branch* (Grants Management Officers are appointed by the Assistant Administrator for Administration using Certificates of Appointment).

(i) To execute grants, cooperative agreements, and contracts authorized by Federal Statute subject to the limitations contained at 31 U.S.C., section 6301 et seq. and OMB Circulars A–110, A–102, A–21, and A–122.

(ii) Monetary limitations: Grants Management Officers up to $750,000.

(b) The specific authorities delegated herein may not be redelegated.

(c) All authority delegated herein may be exercised by any SBA employee designated as acting in that position with exception of Contracting and Agreement Officers who are warranted by name. Such warrants do not authorize "acting" or any substitutions.

Effective date: Upon publication in the **Federal Register.**

Dated: May 20, 1985.

Joe Maas,

Assistant Administrator for Administration.

[FR Doc. 85–12575 Filed 5–24–85; 8:45 am]

BILLING CODE 8025–01–M

[Delegation of Authority No. 22–B1]

Delegation of Authority; Office of Comptroller

Comptroller authority, Delegation of Authority No. 22–B, is herein redelegated.

Delegation of Authority No. 22–B1 reads as follows:

(a) Pursuant to the authority delegated by the Associate Deputy Administrator for Management and Administration in Delegation of Authority No. 22–B published and effective simultaneously with this document, the following authority is hereby delegated to the specific positions as indicated herein:

(1) *Director, Office of Accounting Operation.*

(i) *Financial Management.* To assign, endorse, transfer, deliver or release (but in all cases without representation, recourse or warranty) promissory notes, bonds, debentures, and other obligating instruments on all loans or investments made or serviced by SBA when paid in full or when tranferred to the Department of Justice for liquidation.

(2) *Chief, Accounting Branch.* Same as paragraph (1)(i) above.

(3) *Chief, Fiscal Branch.* Same as paragraph (1)(i) above.

(b) The specific authorities delegated herein may not be redelegated.

(c) All authority delegated herein may be exercised by any employee designated as acting in that position.

Effective date: Upon publication in the **Federal Register.**

Dated: May 20, 1985.

Harry S. Carver,

Comptroller.

[FR Doc. 85–12577 Filed 5–24–85; 8:45 am]

BILLING CODE 8025–01–M

[Delegation of Authority No. 16–A; Revision 1]

Redelegation of Minority Small Business and Capital Ownership Development Activities

1. Pursuant to the authority delegated by the Administrator to the Associate Administrator for Minority Small Business and Capital Ownership Development by Delegation of Authority No. 16 (44 FR 20530), as revised, published and effective simultaneously with this document, the following authority is hereby delegated to the specific positions as indicated herein:

A. *Deputy Associate Administrator for Minority Small Business and Capital Ownership Development.*

1. *Section 8(a)(1) Contracting Authority.*

a. To enter into contracts on behalf of the Small Business Administration with the United States Government and any department, agency, or officer thereof having procurement powers, obligating the Small Business Administration to furnish articles, equipment, supplies, services, or materials to the Government or to perform construction work for the Government. Section 8(a)(1)(B) contracting authority expires on September 30, 1985.

b. To certify to any officer of the Government having procurement powers that the Small Business Administration is competent and responsible to perform any specific Government procurement contract to be let by any such officer.

c. To arrange for the performance of such procurement contracts by negotiating or otherwise letting subcontracts to socially and economically disadvantaged small business concerns for the construction work, services or the manufacture, supply, or assembly of such articles, equipment, supplies, or materials, or parts thereof, or servicing or processing in connection therewith, or such management services as may be necessary to enable the Small Business Administration to perform such contracts.

2. *Technical or Management Assistance (7(j) Program).* To exercise program management authority, except for the execution of grants, cooperative agreements, and contracts made to carry out the program which provides for financial assistance to public or private organizations to pay all or part of the cost of projects designed to provide technical or management assistance to individuals or enterprises eligible for assistance under sections 7(i), 7(j)(10), and 8(a) of the Small Business Act, as amended, with special attention to small businesses located in areas of high concentration of unemployed or low-income individuals, to small businesses eligible to receive contracts pursuant to section 8(a) of the Small Business Act.

4. *Contract Officer Accountability.* To be accountable for section 8(a)(1) Contract Officers certified in accordance with Federal Acquisition Regulations (FAR), Subparts 1.601 through 1.604.

B. *Director, Office of Program Development.*

1. *Section 8(a)(1) Contracting Authority.*

a. To enter into contracts on behalf of the Small Business Administration with the United States Government and any department, agency, or officer thereof having procurement powers, obligating the Small Business Administration to furnish articles, equipment, supplies, services, or materials to the Government or to perform construction work for the Government. Section 8(a)(1)(B) contracting authority expires on September 30, 1985.

b. To certify to any officer of the Government having procurement powers that the Small Business Administration is competent and responsible to perform any specific Government procurement contract to be let by any such officer.

c. To arrange for the performance of such procurement contracts by negotiating or otherwise letting subcontracts to socially and economically disadvantaged small business concerns for the construction work, services or the manufacture, supply, or assembly of such articles, equipment, supplies, or materials, or parts thereof, or servicing or processing in connection therewith, or such management services as may be necessary to enable the Small Business Administration to perform such contracts.

3. *Contract Officer Accountability.* To be accountable for section 8(a)(1) Contract Officers certified in accordance with Federal Acquisition Regulations (FAR), Subparts 1.601 through 1.604.

c. *Director, Office of Private Industry Programs: Technical or Management Assistance (7(j) Program).* To exercise program management authority, except for the execution of 7(j) grants, cooperative agreements, and contracts made to carry out the program which provides financial assistance to public or private organizations to pay all or part of the cost of projects designed to provide technical or management assistance to individuals or enterprises eligible for assistance under sections (7(i), 7(j)(10), and 8(a) of the Small Business Act, as amended, with special attention to small businesses located in areas of high concentration of unemployed or low-income individuals, to small businesses eligible to receive contracts pursuant to section 8(a) of the Small Business Act.

II. The specific authorities delegated herein may not be redelegated.

III. All authority delegated herein may be exercised by any SBA employee designated as acting in that position.

Effective date: Upon publication in the **Federal Register.**

Dated: May 3, 1985.

Isaiah Washington,

Acting Associate Administrator for Minority Small Business and Capital Ownership Development.

[FR Doc. 85-12672 Filed 5-24-85; 8:45 am]

BILLING CODE 8025-01-M

[Delegation of Authority No. 16; Revision 1]

Delegation of Authority; Associate Administrator for Minority Small Business and Capital Ownership Development

Delegation of Authority No. 16 (44 FR 20530) as amended (46 FR 32121) is hereby revised to rescind authority to execute 7(j) grants, cooperative agreements, and contracts; with the 7(j) authority transferred to the Associate Deputy Administrator for Management and Administration in Delegation of Authority No. 22, Amendment 1 published and effective simultaneously with this document, and to recodify, adding authority for Contract Officer accountability.

Accordingly, Delegation of Authority No. 16 is revised as follows:

I. Pursuant to the authority vested in the Administrator by the Small Business Act, 72 Stat. 384, as amended, and the Small Business Investment Act of 1985, 72 Stat. 689, as amended, there is hereby delegated to the Associate Administrator for Minority Small Business and Capital Ownership Development the following authority:

A. Section 8(a)(1) Contracting Authority

1. To enter into contracts on behalf of the Small Business Administration with the United States Government and any department, agency, or officer thereof having procurement powers, obligating the Small Business Administration to furnish articles, equipment, supplies, services, or materials to the Government or to perform construction work for the Government. Section 8(a)((1)(B) contracting authority expires on September 30, 1985.

2. To certify to any officer of the Government having procurement powers that the Small Business Administration is competent and responsible to perform any specific Government procurement contract to be let by any such officer.

3. To arrange for the performance of such procurement contracts by negotiating or otherwise letting subcontracts to socially and economically disadvantaged small business concerns for the construction work, services or the manufacture, supply or assembly of such articles, equipment, supplies, or materials, or parts thereof, or servicing or processing in connection therewith, or such management services as may be necessary to enable the Small Business Administration to perform such contracts.

B. Technical or Management Assistance (7(j) Program)

To exercise program management authority, except for the execution of grants, cooperative agreements, and contracts made to carry out the program which provides for financial assistance to public or private organizations to pay all or part of the cost of projects designed to provide technical or management assistance to individuals or enterprises eligible for assistance under sections 7(i), 7(j)(10), and 8(a) of the Small Business Act, as amended, with special attention to small businesses located in areas of high concentration of unemployed or low-income individuals, to small businesses eligible to receive contracts pursuant to section 8(a) of the Small Business Act.

C. Contract Officer Accountability

To be accountable for section 8(a)(1) Contract Officers certified in accordance with Federal Acquisitions Regulations (FAR), Subparts 1.601 through 1.604.

II. The authority delegated herein may be redelegated to Central Office officials.

III. All authority delegated herein may be exercised by any SBA employee designated as Acting Associate Administrator for Minority Small Business and Capital Ownership Development.

Effective Date: Upon publication in the **Federal Register.**

James C. Sanders,

Administrator.

[FR Doc. 85-12671 Filed 5-24-85; 8:45 am]

BILLING CODE 8025-01-M

SYNTHETIC FUELS CORPORATION

Draft Solicitation for Projects To Produce Synthetic Fuels by Mining and Surface Processing Tar Sands

AGENCY: United States Synthetic Fuels Corporation.

ACTION: Invitation of public comments.

SUMMARY: The Corporation has prepared a draft solicitation for Projects to Produce Synthetic Fuels by Mining and Surface Processing Tar Sands and

invites public comment on said draft solicitation.

For Copies of the Draft Solicitation, Contact: Catherine McMillan, Director of Public Disclosure, United States Synthetic Fuels Corporation, 2121 K Street NW., Washington, D.C. 20586; (202) 822–6460.

DATE: Comments must be received on or before June 12, 1985.

ADDRESS: Comments should be sent to Richard V. Shanklin, Project Officer, United States Synthetic Fuels Corporation, 2121 K Street NW., Washington, D.C. 20586.

FOR FURTHER INFORMATION CONTACT: Richard V. Shanklin, Project Officer, (202) 822–6463.

Dated: May 22, 1985.

United States Synthetic Fuels Corporation.

March Coleman,

Assistant Secretary.

[FR Doc. 85–12726 Filed 5–24–85; 8:45 am]

BILLING CODE 0000-00-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Role of Preflight Preparation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Announces the availability of AC 61–84B regarding the role of preflight preparation.

SUMMARY: This advisory circular modifies and updates the flight information available to pilots as a result of changes in the basic Airman's Information Manual format.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Byers, Office of Flight Operations, General Aviation and Commercial Division, AFO–840, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone number (202) 426–8196.

SUPPLEMENTARY INFORMATION: If you do not receive distribution through normal channels, a copy may be requested from the: U.S. Department of Transportation, Subsequent Distribution Section, M–494.3, 400 7th Street, SW., Washington, D.C. 20590.

Issued in Washington, D.C., on May 15, 1985.

William T. Brennnan,

Acting Director of Flight Operations.

[FR Doc. 85–12660 Filed 5–24–85; 8:45 am]

BILLING CODE 7510-13-M

Jackson Hole Airport, Jackson, WY Noise Exposure Map Notice; Receipt of Noise Compatibility Program and Request for Review

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the Jackson Hole Airport Board for Jackson Hole Airport (JAC) under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) and 14 CFR Part 150 are in compliance with applicable requirements. The FAA also announces that it is reviewing a proposed noise compability program that was submitted for JAC under Part 150 in conjunction with the noise exposure maps, and that this program will be approved or disapproved on or before November 11, 1985.

DATES: The effective date of the FAA's determination on the JAC noise exposure maps and of the start of its review of the associated noise compatibility program is May 15, 1985. The public comment period ends June 7, 1985.

FOR FURTHER INFORMATION CONTACT: Dennis Ossenkop, FAA, Airports Division, ANM–611, 17900 Pacific Hwy. S., C–68966, Seattle, WA 98168.

Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice anounces that the FAA finds that the noise exposure maps for JAC are in compliance with applicable requirements of Part 150, effective May 15, 1985. Further, FAA is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before November 11, 1985. This notice also announces the availability of this program for public review and comment.

Under Section 103 on Title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA a noise exposure map which meets applicable regulations and which depicts noncompatible land uses as of the date of submission of such map, a description of projected aircraft operations, and the ways in which such operations will affect such map. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies and persons using the airport.

An airport operator who has submitted a noise exposure map that has been found by FAA to be in compliance with the requirements of Federal Aviation Regulation Part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompliance uses and for the prevention of the introduction of additional noncompatible uses.

JAC submitted to the FAA on April 22, 1985, noise exposure maps, descriptions and other documentation which were produced during an airport Noise Compatibility Study. It was requested that the FAA review this material as the noise exposure maps, as described in Section 103(a)(1) of the Act, and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under Section 104(b) of the Act.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by JAC. The specific maps under consideration are Figures 22 and 25 in the submission. The FAA has determined that these maps for JAC are in compliance with applicable requirements. This determination is effective on May 15, 1985. FAA's determination on an airport operator's noise exposure maps is limited to the determination that the maps were developed in accordance with the procedures contained in Appendix A of FAR Part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under Section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying

of noise exposure contours onto the maps depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under Section 103 of the Act. The FAA has relied on the certification by the airport operator, under Section 150.21 of FAR Part 150, that the statutorily required consultation has been accomplished.

The FAA has formally received the noise compatibility program for JAC, also effective on May 15, 1985. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before November 11, 1985.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR Part 150, § 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, Independence Avenue, SW, Room 615, Washington, D.C.
Federal Aviation Administration, Airports Division, ANM-600, 17900 Pacific Hwy. S., C-68966, Seattle, Washington 98168
Jackson Hole Airport, Jackson, Wyoming

Questions maybe directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Seattle, Washington, May 15, 1985.

Edward G. Tatum,

Manager, Airports Division, Northwest Mountain Region.

[FR Doc. 85-12781 Filed 5-24-85; 8:45 am]

BILLING CODE 4910-13-M

VETERANS ADMINISTRATION

Mississippi State Veterans Home, Jackson, MS; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts that may occur as a result of the proposed construction of a nursing home at Jackson, Mississippi. This project is being considered for Federal assisstance under the Grants to State Homes Program and involves the construction of a 150-bed nursing home at Jackson, Mississippi. The estimated project cost is approximately $6,750,000. This is a magnitude estimate and is subject to revisions.

A beneficial impact will be achieved through the addition of 150 beds which will provide health care service to Mississippi veterans. The project will also provide additional employment and income for the local area surrounding the facility.

Construction related traffic may affect the flow of nearby traffic, and construction noise associated with the development of the new nursing home may cause annoyance to occupants of adjacent residences. Complaints about noise usually give rise to a controversial situation. The impact of dust and fumes that will exist during construction will be of short duration lasting only during that phase of project development.

In relation to both construction and operation, the new facility will be built in accordance with applicable Federal, State, and local air quality standards.

The significance of the identified impacts has been evaluated relative to the considerations of both context and intensity, as defined by the Council on Environmental Quality, 40 CFR 1508.27.

This Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations Sections 1501.3 and 1508.9, Title 40, Code of Federal Regulations. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for a 130-day public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office:

Associate Deputy Administrator for Logistics (10A4A4), Room 601, Veterans Administration, 810 Vermont Avenue, NW., Washington, DC. (202/389-3544).

Questions or request for single copies of the Environmental Assessment may be addressed to the above office.

By direction of the Administrator.

Dated: May 20, 1985.

Everett Alvarez, Jr.,

Deputy Administrator.

[FR Doc. 85-12703 Filed 5-24-85; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 102
Tuesday, May 28, 1985

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

AFRICAN DEVELOPMENT FOUNDATION

Board Meeting

TIME: 6:00 p.m.

PLACE: 3020 Brandywine Street, NW., Washington, D.C. 20007.

DATE: Thursday, 13 June 1985.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Chairman's Report
2. President's Report
3. Advisory Council Report—Arterbery/Robinson
4. External Committee Report—(Mr. A.C. Arterbery)
5. Program Committee Report—(Dr. Patsy Blackshear)
6. Other Business

CONTACT PERSON FOR MORE INFORMATION: Ms. Marjorie S. Cook (634–9853).

Leonard H. Robinson, Jr.,

President.

[FR Doc. 85–12818 Filed 5–23–85; 12:28 pm]

BILLING CODE 6116-01-M

2

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 50 FR 20870, May 20, 1985.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., Thursday, May 23, 1985.

CHANGES IN THE MEETING: Addition of the following closed item(s) to the meeting:

Congressional request for information regarding the health plans administered under the Federal Reserve System's employee benefits program.

CONTRACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board: (202) 452–3204

Dated: May 23, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85–12858 Filed 5–23–85; 3:23 pm]

BILLING CODE 6210-01-M

3

FEDERAL ENERGY REGULATORY COMMISSION

May 23, 1985.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552B:

TIME AND DATE: May 30, 1985 10:00 a.m.

PLACE: 825 North Capitol Street, NE., Room 9306, Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

*Note—Items listed on the agenda may be deleted without further notice.

CONTRACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 357–8400.

This is a list of matters to be considered by the commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the division of public information.

Consent Power Agenda, 814th Meeting—May 30, 1985, Regular Meeting (10:00 a.m.)

CAP–1.
Project No. 8821–000, City of New York, Department of Environmental Protection
CAP–2.
Project No. 5505–003, Southeastern Hydro-Power, Inc.
CAP–3.
Project Nos. 6810–006 and 6811–006, Douglas Mendenhall
CAP–4.
Docket No. EL85–13–001, Georgia Power Company
CAP–5.
Project No. 8184–002, Iowa Hydropower Development Corporation
CAP–6.
Project No. 2969–002, Borough of Weatherly
CAP–7.
Omitted
CAP–8.
Project No. 2909–001, Town of Vidalia, Louisiana
CAP–9.
Docket No. QF85–4–000, Fayette Manufacturing Corporation
CAP–10.
Docket Nos. ER82–703–002 and 003, New England Power Company
CAP–11.
Docket Nos. ER85–312–000, ER85–327–000, ER85–339–000 and ER85–393–000, Alabama Power Company, Gulf Power Company, Mississippi Power Company and Georgia Power Company
CAP–12.
Docket No. ER85–406–000, Sierra Pacific Power Company
CAP–13.
Docket No. ER85–412–000, Central and South West Services, Inc.
CAP–14.
Docket Nos. ER85–424–000 and ER85–425–000, Southwestern Electric Power Company
CAP–15.
Docket No. ER84–136–000, Kansas Gas and Electric Company

Consent Miscellaneous Agenda

CAM–1.
Docket No. RM78–11–000, Institute for Public Interest Representation
Docket No. RM79–41–000, affiliate purchases; Federal Power Act Fuel Adjustments
Docket No. RM82–12–000, equal access to justice
Docket No. RM83–59–000, New England Environmental Mediation Center
CAM–2.
Docket No. RM79–76–227 (Colorado–1, amendment III), high-cost gas produced from tight formations
CAM–3.
Docket No. GP80–43–008 (phase II), Northern Natural Gas Company
CAM–4.
(A) Docket No. GP80–24–003, Transcontinental Gas Pipe Line Corporation
(B) Docket No. GP80–24–006, Transcontinental Gas Pipe Line Corporation
CAM–5.
Docket No. GP84–32–000, Gulftide Gas Corporation
CAM–6.
Docket No. GP84–20–000, city of Farmington, v. Amoco Gas Company and Amoco Production Company

Consent Gas Agenda

CAG–1.
Docket No. RP85–141–000, Texas Gas Transmission Corporation
CAG–2.
Docket No. RP85–142–000, Louisiana-Nevada Transit Company
CAG–3.
Docket Nos. TA85–2–55–000 and 001, Mountain Fuel Resources, Inc.

CAG–4.
Docket Nos. TA85–2–56–000 and 001 (PGA85–2), Valero Interstate Transmission Company
CAG–5.
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Docket No. TA85–1–53–005, KN Energy, Inc.
CAG–7.
Docket Nos. TA85–2–52–002 and RP85–77–003, Western Gas Interstate Company
CAG–8.
Docket Nos. TA85–1–16–000, 001, 002 and 003 (PGA85–1, 1A and 1B), National Fuel Gas Supply Corporation
CAG–9.
Docket Nos. TA85–1–18–000 and 001 (PGA85–1), Texas Gas Transmission Corporation
CAG–10.
Docket No. TA85–3–49–000, Williston Basin Interstate Pipeline Company
CAG–11.
Docket Nos. RP82–87–001, TA83–1–16–002, TA83–2–16–000 and TA83–1–16–001, National Fuel Gas Supply Corporation
CAG–12.
Docket Nos. RP85–13–000, RP85–65–000 and TA85–2–37–002 (not consolidated), Northwest Pipeline Corporation
CAG–13.
Docket No. RP85–16–000, Stingray Pipeline Company
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Docket Nos. RP84–78–000 and TA85–1–61–000, Bayou Interstate Pipeline System
CAG–15.
Docket Nos. RP81–25–000, RP81–69–000 and RP82–46–000, South Georgia Natural Gas Company
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Docket Nos. ST85–392–000, ST85–450–000 and ST81–307–001, Cabot Pipeline Corporation
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Docket No. CI85–290–000, Union Oil Company of California, Eugene Shoal Oil Company and Bţiton Resources Company
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Docket No. CI85–41–001, American Petrofina Company of Texas, Petrofina Delaware, Incorporated and Fina Oil & Gas, Inc.
CAG–21.
Docket No. TC85–15–000, Texas Eastern Transmission Corporation
CAG–22.
Docket No. CP75–104–046, High Island offshore system
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CAG–24.
Docket No. CP85–87–000, Northern Natural Gas Company, division of Internorth, Inc.
CAG–25.
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CAG–26.
Docket No. CP80–499–007, Northwest Central Pipeline Corporation

I. Licensed Project Matters

P–1.
Project Nos. 2854–007 through 010, town of Vidalia, Louisiana
P–2.
Project Nos. 2840–010, 2849–008 and 3295–003, East Columbia Basin Irrigation District, Quency-Columbia Basin Irrigation Distict and South Columbia Basin Irrigation District

II. Electric Rate Matters

ER–1.
Docket No. EF85–5031–000, United States Department of Energy—Western Area Power Administration
ER–2.
Docket No. EL85–15–000, Public Service Company of New Hampshire

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Omitted
M–5.
Omitted

I. Pipeline Rate Matters

RP–1.
Docket Nos. TA85–3–59–000, 001, TA85–2–59–000 and 001, Northern Natural Gas Company, division of Internorth, Inc.
RP–2.
Docket Nos. TA85–2–28–000 and 001, Panhandle Eastern Pipe Line Corporation
RP–3.
Docket Nos. RP85–143–000 and RP85–145–000, Texas Eastern Transmission Corporation
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RP–5.
Docket No. RP79–23–021, Distrigas of Massachusetts Corporation
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Docket Nos. ST81–260–000, 001, 002 and CP82–206–000, Mustang Fuel Corporation
RP–7.
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Docket Nos. RP81–82–000, RP82–119–000 and RP84–74–000, Columbia Gulf Transmission Company
Docket Nos. CP84–209–000, through 013, Lawrenceburg Gas Transmission Corporation and Texas Gas Transmission Corporation
Docket No. CP84–763–000, Columbia Gas Transmission Corporation v. Consolidated Gas Transmission Corporation
Docket No. CP85–191–000, Cincinnati Gas and Electric Company
Docket No. CP84–630–000, Lawrenceburg Gas Transmission Corporation
Docket No. CP84–631–000, Lawrenceburg Gas Transmission Corporation
Docket No. CP84–533–000, Columbia Gas Transmission Corporation v. Transcontinental Gas Pipe Line Corporation
Docket Nos. CP84–429–000 and 001, Texas Eastern Transmission Corporation
Docket Nos. RP83–8–000 and CP84–441–000 through 003, Tennessee Gas Pipeline Company, A division of Tenneco Inc.

II. Producer Matters

CI–1.
Reserve

III. Pipeline Certificate Matters

CP–1.
Docket No. RP71–29–029 (phase II), United Gas Pipe Line Company
CP–2.
Docket Nos. RP71–29–003 and RP71–120–000 (phase III), United Gas Pipe Line Company
CP–3.
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Docket Nos. G–2500–000 through 005, Commonwealth Gas Pipeline Corporation and Columbia Gas Transmission Corporation
Docket Nos. CP85–121–000 and CP85–122–000, Commonwealth Gas Pipeline Corporation
CP–5.
Docket No. CP79–224–007, El Paso Natural Gas Company
CP–6.
Docket No. CP85–18–000, Point Arguello Natural Gas Line Company
CP–7.
Docket Nos. CP84–441–000, 001, 002 and RP83–8–000, et al., Tennessee Gas Pipeline Company, division of Tenneco Inc.
Docket No. CP85–264–000, et al., Transcontinental Gas Pipe Line Corporation

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–12861 Filed 5–23–85; 3:23 p.m.]

BILLING CODE 6717–01–M

4

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9:00 a.m.—May 29, 1985.

PLACE: Hearing Room One—1100 L Street, NW., Washington, D.C. 20573.

STATUS: Closed.

MATTER TO BE CONSIDERED: Agreement No. 224–010750—Container Terminal Services Agreement Between Tacoma Terminals, Inc. and Sea-Land Service Inc.

CONTACT PERSON FOR MORE INFORMATION: Bruce A. Dombrowski, Acting Secretary, (202) 523–5725.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85–12767 Filed 5–22–85; 4:24 pm]

BILLING CODE 6730–01–M

5

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

ACTION: Notice of meeting to be held pursuant to the Government in the Sunshine Act (5 U.S.C. 552b).

STATUS: Open.

TIME AND DATE: May 15–16, 1985, 9:00 a.m.

PLACE: Council Offices, 850 SW. Broadway, Suite 1100, Portland, Oregon.

MATTERS TO BE CONSIDERED:

- Staff Presentation and Council Decision on Draft Resource Portfolio.
- Council Decision to Enter Rulemaking on an Amendment Regarding the Council's Model Conservation Standards.
- Staff Presentation and Additional Public Comment on the Role of Power Institutions in the 1985 Power Planning Issue Paper.
- Public Comment on Conservation and Resources Action Plan Issue Papers.
- Council Decision on Council Intertie Access Policy Issue Paper.
- Staff Presentation and Public Comment on the Northwest Power Planning Council's Revised Fiscal Year 1986 and 1987 Draft Budget.
- Staff Presentation on System Planning Issue Paper
- Staff Presentation on Accounting/ Modeling Issue Paper.
- Council Business.

Public comment will follow each item.

FOR FURTHER INFORMATION CONTACT: Ms. Bess Wong, (503) 222–5161.

Edward Sheets,

Executive Director.

[FR Doc. 85–12805 Filed 5–23–85; 10:58 am]

BILLING CODE 0000–00–M

6

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of May 27, 1985.

A closed meeting will be held on Wednesday, May 29, 1985, at 2:30 p.m.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10).

Commissioner Marinaccio, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Wednesday, May 29, 1985, at 2:30 p.m., will be:

Formal orders of investigation.

Settlement of administrative proceedings of an enforcement nature.

Institution of injunctive actions.

Settlement of injunctive action.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For Further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: David Powers at, (202) 272–2091.

John Wheeler,

Secretary.

May 22, 1985.

[FR Doc. 85–12831 Filed 5–23–85; 12:30 pm]

BILLING CODE 8010–01–M

federal register

Tuesday
May 28, 1985

Part II

Department of Housing and Urban Development

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

Availability of Funding Under the Community Housing Resource Board Program; Competitive Solicitation; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

[Docket No. N-85-1525; FR-2100]

Availability of Funding Under the Community Housing Resource Board Program; Competitive Solicitation

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Notice of funds availability.

SUMMARY: HUD is soliciting applications from eligible Community Housing Resource Boards (CHRBs) for funding under the CHRB Program. CHRBs must meet certain eligibility criteria in order to qualify for consideration.

DATE: Applications for funding must be submitted by July 24, 1985.

FOR FURTHER INFORMATION CONTACT: Kenneth Stein, Office of Procurement and Contracts, Room 5256, Office of the Assistant Secretary for Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410. Application kits will be sent only upon written request made after June 10, 1985 to the Office of Procurement and Contracts at the above address. Telephone requests for application kits will not be honored.

SUPPLEMENTARY INFORMATION: This Notice of Funds Availability is issued under the regulations for the CHRB Program, published in the Federal Register on March 25, 1982 (47 FR 12926) and codified at 24 CFR Part 120. Interested CHRBs are urged to review these regulations and the factors for award in the application kit to determine whether or not they should apply under this program.

The program has two categories of funding: (1) Maintenance and (2) Improvement. A CHRB should apply for *maintenance* funding when its activities have resulted in full implementation of the terms of the Voluntary Affirmative Marketing Agreement (VAMA). CHRBs in this category will be provided funds to maintain their efforts related to the goals of the VAMA.

A CHRB should apply for *Improvement* funding when the terms of the VAMA have not been fully implemented. CHRBs in this category will be provided funds to improve their capacity to achieve the goals of the VAMA.

Eligible CHRBs may apply for funds under only one category.

Program Background

Sections 808(e) (3) and (5) of Title VIII of the Civil Rights Act of 1968, as amended, require the Secretary to "cooperate with and render technical assistance to Federal, State, local and other public or private agencies, organizations, and institutions which are formulating or carrying on programs to prevent or eliminate discriminatory housing practices * * *" and to "administer the programs and activities relating to housing and urban development in a manner affirmatively to further the policies of this title."

Further, section 809 requires that "the Secretary shall commence such educational and conciliatory activities as in his judgment will further the purposes of this title * * * shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this title and his suggested means of implementing it, and shall endeavor with their advice to work out programs of voluntary compliance and of enforcement."

In order to promote the achievement of the goal of fair housing throughout the United States, the Department of Housing and Urban Development has developed the Voluntary Affirmative Marketing Agreement Program. This nationwide program focuses on local efforts to assure nondiscrimination in connection with the sale, rental and financing of housing and the provision of services and facilities in connection with those activities, and to promote achievement of a condition in which individuals of similar income levels in the same housing marketing area have available to them a like range of choices in housing regardless of their race, color, religion, sex or national origin.

Consistent with its responsibilities under Title VIII, HUD has entered into Voluntary Affirmative Marketing Agreements (VAMAs) with the National Association of Realtors, the National Association of Real Estate Brokers and the National Association of Home Builders. These agreements are intended to promote a broad equal opportunity program designed to assure that housing will be marketed on a nondiscriminatory basis. In addition, signatories to a VAMA agree to conduct certain programs and activities to acquaint communities with equal housing opportunity, to establish office procedures to ensure that there is no denial of equal professional service and to make materials available which explain the commitment of signatories to the goal of fair housing.

The VAMAs, signed by housing industry associations at the national level, are implemented locally. In addition to providing a program to promote fair housing efforts, the VAMAs commit HUD to provide technical assistance to local housing industry groups who become signatories to the agreements. Assistance in implementing VAMA commitments is provided to the local housing industry group through HUD-established CHRBs composed of representatives of community organizations dedicated to equal housing opportunity.

This progoram is listed in the Catalog of Federal Domestic Assistance under program number 14.401, Fair Housing Assistance Program. The requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)) have been met, and the information collection requirements contained in this Notice have been approved under OMB Control Number 2529-0022.

Eligible Applicants

This Notice is for CHRBs that have never received funds under the CHRB Program *and* for CHRBs that were funded under the CHRB Program in 1982 under Request for Grant Application (RFGA) HG-10638 or in 1983 under RFGA HG-12176. Except as explained below, CHRBs that were funded in 1984 under RFGA HG-12627 are not eligible to apply for funds under this Notice. In order to be eligible for participation in the program for the first time, an applicant must meet the following criteria:

(a) The applicant must be a CHRB consisting of HUD-appointed representatives from community organizations or agencies dedicated to equal housing opportunity, formed to fulfill HUD's obligation to provide technical assistance to local real estate boards, homebuilder groups, or both in the implementation and monitoring of progress under the VAMA;

(b) The CHRB must have been in existence at least six months prior to the publication date of this Notice; and

(c) The CHRB must demonstrate in its application that it meets the criteria specified in §§ 120.15(d), 120.20, 120.25, 120.30 and 120.35 of the CHRB regulations (24 CFR Part 120).

To be eligible for refunding under the CHRB Program, an applicant must meet the eligibility criteria set forth above for first-time applications and the following additional criteria:

(a) The applicant must have successfully completed the requirements of its 1982 or 1983 CHRB grant. An applicant will have successfully

completed its grants if the Government Technical Representative has approved the CHRB's final payment voucher by the first day of the 45-day application period of this Notice; and

(b) During the grant year, the applicant must have (1) carried out at least two activities that specially address the objectives of the VAMA; (2) engaged in the identification of local problems and issues that impede equal housing opportunity; and (3) assessed local housing industry group performance under the VAMA. The applicant must submit evidence that it has met these requirements.

CHRBs that were selected to be funded under HUD's New Horizons Program are not eligible to apply for funding under this Notice. However, CHRBs that applied for New Horizons funding but were not selected are eligible to apply for funding under this Notice.

A CHRB funded in 1984 that received less than the amount requested in its submission may apply for funds under this Notice. Such a CHRB should apply as a first-time grantee, and it may request a grant of up to $15,000 or $25,000 (based on the size of its jurisdiction), *minus* the amount of the grant awarded under the 1984 NOFA.

Method of Distribution

Applicants for funding must submit all information required in the application kit, including a separate funding proposal, a budget and a one page synopsis of the proposed project. Maximum funding amounts will be as follows: CHRBs in jurisdictions with populations under 50,000 may apply for grants up to $15,000. CHRBs in jurisdictions with populations of 50,000 or more may apply for grants up to $25,000. Two categories of funding have been established: *Maintenance*, where VAMAs have been fully implemented, and *improvement*, where VAMAs have not been fully implemented. Projects will be evaluated for funding separately within each category, to avoid disadvantage to less experienced CHRBs.

Sixty percent of the funds to be awarded will be allocated to proposals from CHRBs seeking grants for the first time. Forty percent of the funds will be for proposals from CHRBs seeking additional funding. If funds remain in either category (first-time or refunding) after all acceptable proposals have been funded, the remaining funds can be used for the other category. This will allow HUD to fund as many acceptable proposals as possible (regardless of their area of submission).

Although HUD does not intend to differentiate between maintenance and improvement in terms of funding levels, information received through the Voluntary Affirmative Marketing Monitoring Form, HUD 941A, indicates that a larger number of CHRBs will be funded in the improvement category, since the majority of CHRBS assist local housing industry groups that have not fully accomplished the goals of the VAMA.

It is important to note that, although funds may be used for operating cost associated with this specific funded activities of the CHRB program, applications that propose to use the major portion of the funds for *program costs* (as opposed to administrative costs) will receive priority consideration.

Application Requirements

Congress has appropriated $2 million to fund the fair housing technical assistant efforts of CHRBs. As indicated above, HUD intends to allocate the major part of this funding to first-time proposals for a one-year effort. Following that, CHRBs will be encouraged to seek at least part of their funding for continuing projects from other sources. Accordingly, applications from CHRBs seeking additional funding will not be accepted unless accompanied by letters of financial or in-kind support from the private sector or from State or local governmental entities. HUD believes that these funds can provide the assistance necessary to afford existing CHRBs the capability of rendering more effective assistance to local housing industry groups. As stated above, grant amounts will depend upon the size of the jurisdiction where the CHRB operates, with CHRBs in large jurisdictions receiving larger grants than those in small jurisdictions.

Since training is an essential part of this program, all funded CHRBs are required to set aside 5% of the HUD funds for training purposes. Further information on training requirements will be provided by HUD Headquarters during the funding year.

The format and content requirements for applications are described in application kits which will be provided to each CHRB interested in applying. Application kits will be sent upon written request, made after June 10, 1985, the HUD Office of Procurement and Contracts at the address set forth above. All applicants will receive the same application kits. Where the factors for award differ for maintenance and improvement funding, and for refunding, such differences will be explained in the kit.

In reviewing applications, the Assistant Secretary for Fair Housing and Equal Opportunity will give priority consideration to projects that will have a significant impact in areas with substantial minority populations. In addition, the Assistant Secretary may take into account the location of applicants, to assure a broad geographic distribution of projects under the program.

Regional Offices will be advised of the CHRBs within their jurisdictions that submit applications for funding and will be informed of the Assistant Secretary's awards in advance of public announcement. In addition, HUD program monitors will be required to submit quarterly monitoring reports on the activities of the funded CHRBs to the Government Technical Representative and the Regional Administrator.

Selection Criteria

Projects proposed in applications will be ranked on the basis of five criteria.

The first criterion is the relationship of the proposed project to the goals of the VAMA. The principal purpose of a CHRB is to assess the implementation of the VAMA and to assist in the solution of problems associated with the implementation of the VAMA. HUD, therefore, has decided to focus on specific eligible projects that emphasize VAMA implementation and monitoring activities. Accordingly, eligible projects that will earn the maximum number of points under this first criterion are those that: (1) Will assess the effectiveness of the VAMA; (2) will expand minority involvement in the industry; and (3) will develop cooperative solutions to problems associated with the implementation of the VAMA. Eligible projects that will receive a lower priority (*i.e.*, less completely meet the goals of the VAMA) are those that: (1) Will make information public regarding the goals of fair housing and the VAMA; (2) will assess community fair housing needs; or (3) will expand public awareness of housing opportunities in the community.

The other selection criteria are:

(1) The extent to which the proposed project will affect the groups the VAMA is designed to reach, e.g., significant impact in areas with substantial minority populations;

(2) The commitment of the CHRB members, as indicated through regular attendance at meetings and by demonstrated results of prior funded activities (for CHRBs requesting refunding), and demonstrated efforts in support of the VAMA (for CHRBs requesting first-time funding);

(3) The amount of relevant professional or organizational experience, including experience in fair housing, available to the CHRB to implement the projects proposed; and

(4) The extent to which the proposed projects do not duplicate other community efforts.

The relative weights of the five criteria for selection will be:

Criteria	Points
Relationship of project to the VAMA goals	30
Extent to which groups VAMA is designed to reach are affected	25
Documentation of commitment of CHRB members	15
Experience available to implement projects	20
Extent to which projects do not duplicate other community efforts	10
Total	100

Notification of Applicants

All applicants will be notified by mail of the results of their applications, as soon as review and evaluation of the applications are completed. No information will be made available to applicants during the period of HUD review and evaluation, except for notification of those applicants that are determined to be ineligible.

All awards are expected to be announced by HUD within 90 days of the final submission date. Applications for funding must be submitted by July 24, 1985. No application received by HUD after that date will be considered unless the application is received before awards are made and one of the late application exceptions set forth in the application kit is met.

Authority: Title VIII of the Civil Rights Act of 1968, as amended (42 U.S.C. 3601–3619).

Dated: May 20, 1985.

William E. Wynn,

Acting Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 85–12582 Filed 5–24–85; 8:45 am]

BILLING CODE 4210–28–M

federal register

Tuesday
May 28, 1985

Part III

Department of Agriculture

Forest Service

Department of the Interior

Bureau of Land Management
Fish and Wildlife Service
National Park Service

Interagency Guidelines on Management of Grizzly Bear; Notice

DEPARTMENT OF AGRICULTURE

Forest Service

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Fish and Wildlife Service

National Park Service

Interagency Guidelines on Management of Grizzly Bear

AGENCIES: Forest Service, USDA; Bureau of Land Management; Fish and Wildlife Service, National Park Service, USDI.

ACTION: Notice of public meetings and request for public comments.

SUMMARY: The above-named Federal agencies, as members of, and representing the interagency Grizzly Bear Committee, are seeking public comments on interagency guidelines which affect management of the grizzly bear in the States of Idaho, Montana, Washington and Wyoming. The grizzly bear is a federally-listed threatened species in this geographic area. In addition to receiving written comments, the Forest Service and National Park Service will hold public meetings to explain the interagency guidelines and respond to questions. This is in response to direction in the Department of the Interior and Related Agencies Appropriation Act, 1985.

DATES: Comments must be received on or before July 29, 1985. Dates of the public meetings are listed under "**ADDRESSES**" below.

ADDRESSES: Send written comments to Regional Forester Tom Coston, Intermountain Region, Forest Service, USDA, P.O. Box 7669, Missoula, Montana 59807.

Public meetings on the Grizzly Bear Guidelines will be held at the times and locations shown below. No testimony will be taken at these scheduled public meetings; however, written comments are encouraged. Written comments must be received on or before July 29, 1985.

Unit	Date	Time	Place
NATIONAL FORESTS			
Bridger-Teton	June 25	7:30 p.m.	Antlers Motel, Jackson, WY 83001.
Colville	July 10	2:00 p.m. to 4:00 p.m.	Colville NF Supervisor's Office, 695 South Main Street, Colville, WA 99114.
	July 10	7:30 p.m.	Metaline Falls Community Center, Metaline Falls, WA 99153.
Custer	June 12	7:00 p.m.	Custer NF Supervisor's Office, 2602 First Avenue North, Billings, MT 59103.
Flathead	June 18	7:00 p.m.	Flathead NF Supervisor's Office, Conference Rooms A and B, 1935 Third Avenue E., Kalispell, MT 59901.
Gallatin	June 10	7:00 p.m.	Bozeman City Library, 220 East Lamme, Bozeman, MT 59771.
Helena	June 11	7:00 p.m. to 9:00 p.m.	Lewis & Clark County Library, Helena, MT 59626.
Idaho Panhandle	July 17	7:00 p.m.	Idaho Panhandle NF's Supervisor's Office, 1201 Ironwood, Coeur d'Alene, ID 83814.
Kootenai	June 19	7:30 p.m.	Venture Inn Motel, Highway 2, West, Libby, MT 59923.
Lewis & Clark	June 20	7:00 p.m.	Ponderosa Inn, 200 Central Avenue, Great Falls, MT 59403.
Lolo	June 10	7:00 p.m.	University Center, MT Rooms, Univ. of MT, Missoula, MT 59812.
Shoshone	June 20	7:30 p.m.	Cody Convention Hall, Cody, WY 82414
Targhee	June 20	7:30 p.m.	South Jr. High Auditorium, St. Anthony, ID 83445.
NATIONAL PARKS			
Glacier	June 11	7:00 p.m.	Glacier NP Headquarters, Community Room, West Glacier, MT 59936.
Teton	June 25	4:30 p.m.	Antlers Motel, Jackson, Wy 83001.
Yellowstone	June 19	7:00 p.m.	Mammoth Hot Springs School, Gardiner, MT 59030.

FOR FURTHER INFORMATION CONTACT: For copies of the complete document entitled "Guidelines for Management Involving Grizzly Bears in the Greater Yellowstone Area," or for further information contact:

Lorraine Mintzmyer, Regional Director, National Park Service, USDI, P.O. Box 25287, Denver, Colorado 80225, (303) 234–2500

Galen Buterbaugh, Regional Director, Fish and Wildlife Service, USDI, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225, (303) 234–2209

Tom Coston, Regional Forester, Forest Service, USDA, P.O. Box 7669, Missoula, Montana 59807, (406) 329–3011

Dean Stepanek, State Director, Bureau of Land Management, USDI, P.O. Box 30157, Billings, Montana 59107.

SUPPLEMENTARY INFORMATION:

History of the Guidelines. In 1983, the Secretaries of Agriculture and the Interior established an Interagency Grizzly Bear Committee to provide a consistent and coordinated approach toward achieving recovery of the grizzly bear, as mandated by the Endangered Species Act. Committee members include representatives from the Forest Service, National Park Service, Bureau of Land Management, Fish and Wildlife Service, and the Fish and Wildlife agencies of the States of Idaho, Montana, Wyoming, and Washington.

Several of the agencies participated in developing the first guidelines for grizzly bear management in 1979 to assist State and Federal resource managers in the greater Yellowstone area. Since 1979, the guidelines have undergone several revisions as agencies developed first-hand experience in implementing them. They were submitted to the Fish and Wildlife Service in May, 1979, for formal consultation, in accordance with the Endangered Species Act of 1973. The biological opinion of the Fish and Wildlife Service concluded that implementation of the Guidelines will promote the conservation of the grizzly bear.

Overview of Guidelines. The Guidelines are an attempt to integrate a multitude of recreational and utilitarian activities within grizzly bear habitat, to the extent that such activities are compatible with the ultimate goal of achieving recovery of the grizzly bear within the contiguous United States.

The Guidelines consist of two primary elements: (1) An identification and description of five Grizzly Bear Management Situations and (2) specific guidelines for managing other resources in these areas. The Grizzly Bear Management Situations describe five different conditions regarding the status of the grizzly bear population and associated habitat conditions, followed by general management direction applicable to lands containing those conditions.

The Management Guidelines are a series of specific guidelines which address recommended management actions relative to wildlife, timber, fire, range, recreation, mineral, watershed and special uses. The management guidelines differ somewhat for each management situation, according to the bear population, habitat conditions, and associated management direction

emphasis. Guidance consists of ways to maintain and improve habitat, ways to minimize the potential for grizzly-human conflict, and recommendations to resolve grizzly-human conflicts.

The document also contains several appendices useful to resource managers, which deal with interagency responsibilities, methods for dealing with nuisance grizzly bears, methods of evaluation grizzly bear habitat quality and of estimating consequences of proposed management activities, the Biological Opinion rendered by the Fish and Wildlife Service on use of the Guidelines, and a glossary. Appendix A to this notice provides a summary of each of the Grizzly Bear Management Situations in the guidelines for management of grizzly bear in the Greater Yellowstone Ecosystem.

Proposed Changes in the Guidelines and Their Application

The Interagency Guidelines were originally developed for application in the Greater Yellowstone Area. The Forest Service has been using the guidelines as a basis for developing overall direction for grizzly habitat management. The Guidelines are now being proposed for formal application on National Forest System, Bureau of Land Management, and National Park System lands throughout occupied grizzly bear ecosystems in the States of Idaho, Montana, Washington and Wyoming. To facilitate this wider application, the Interagency Grizzly Bear Committee and the heads of the Federal agencies involved are proposing that the "Guidelines for Management Involving Grizzly Bears in the Greater Yellowstone Area * * *" be renamed to the "Interagency Grizzly Bear Guidelines." The Committee also proposes the following changes to the contents of Guidelines:

1. Create a sixth Management Situation that provides guidance for interim management of lands where biological data is insufficient to fully determine whether the habitat is necessary or unnecessary for recovery of the species.

2. Allow a given National Forest, National Park, or Bureau of Land Management resource area to modify the applicable management guidelines to address more specifically the resource situation on a given unit.

Appendix B provides a summary of the new grizzly bear management situation that is proposed along with a discussion of the purpose and consequences of creating this sixth Management Situation and of allowing local modifications of specific management guidelines.

Upon the conclusion of public meetings, the agencies will review and analyze the comments received and announce a final policy decision in the **Federal Register**. The final policy will be issued as directives to agency personnel through their internal directives systems for integration in each agency land and resource management planning process.

Dated: May 13, 1985.
Dated: May 14, 1985.

R. Max Peterson,
Chief, Forest Service.
Robert Burford,
Director, Bureau of Land Management.
F. Eugene Hester,
Acting Director, Fish and Wildlife Service.
Mary Lou Grier,
Acting Director, National Park Service.

Appendix A—Summary of Management Situations

The five Management Situations and related management direction which the specific guidelines address are as follows:

Management Situation 1

Population and habitat conditions. The area in this situation contains population centers (areas key to the survival of grizzlies where seasonal or year-long grizzly activity, under natural, free-ranging conditions is common) and habitat components needed for the survival and recovery of the species or a segment of its population. The probability is very great that major Federal activities or programs may effect the grizzly (that is, will have direct or indirect relationships to the conservation and recovery of the grizzly).

Management direction. Give the highest management priority to maintenance and improvement of grizzly habitat and grizzly-human conflict minimization. Management decisions in this situation favor the needs of the grizzly bear when grizzly habitat and other land use values compete. Make land uses which can affect grizzlies and/or their habitat compatible with grizzly needs or disallow or eliminate such uses. Resolve grizzly-human conflicts in favor of grizzlies unless the bear involved in determined to be a nuisance. Relocate or remove nuisance bears, only if such control measures would result in a more natural free-ranging grizzly population and all reasonable measures have been taken to protect the bear and/or its habitat.

Management Situation 2

Population and habitat conditions. In this situation, the area lacks distinct grizzly population centers; highly suitable habitat does not generally occur, although some grizzly habitat components exist and grizzlies may be present occasionally. By definition, Management Situation 2 areas are those considered unnecessary for survival and recovery of the species, although the status of such areas is subject to review and change according to demonstrated grizzly population and habitat needs. Major Federal activities or programs might affect the conservation of the grizzly bear primarily in that they may contribute toward human-caused bear mortalities.

Management direction. The grizzly bear is an important, but not the primary, use of the area. In some cases, habitat maintenance and improvement may be important management considerations. Minimization of grizzly-human conflict potential that could lead to human-caused mortalities is a high management priority. In this management situation, managers would accommodate demonstrated grizzly populations and/or grizzly habitat use in other land use activities if feasible, but not to the extent of exclusion of other uses. A feasible accommodation is one which is compatible with (does not make unobtainable) the major goals and/or objectives of other uses. Management will at least maintain those habitat conditions which resulted in the area being stratified Management Situation 2. When grizzly population and/or grizzly habitat use and other land use needs are mutually exclusive, the other land use needs may prevail in management consideration. If grizzly population and/or habitat use represents demonstrated needs that are so great (necessary to the normal needs or survival of the species or a segment of its population) that they should prevail in management considerations, then the area should be reclassified under Management Situation 1. Managers would control nuisance grizzlies.

Management Situation 3

Population and habitat conditions. Grizzly presence is possible but infrequent. Developments, such as campgrounds, resorts or other high human use associated facilities, and human presence result in conditions which make grizzly presence untenable for humans and/or grizzlies. There is a high probability that major Federal activities or programs may affect the species' conservation and recovery.

Management direction. Grizzly habitat maintenance and improvement are not management considerations. Grizzly-human conflict minimization is a high priority management consideration. Grizzly bear presence and factors contributing to their presence will be actively discouraged. Any grizzly involved in a grizzly-human conflict will be controlled. Any grizzly frequenting an area will be controlled.

Management Situation 4

Population and habitat conditions. Grizzlies do not occur in the area but habitat and human conditions make the area potentially suitable for grizzly occupancy, and the area is needed for the survival and recovery of the species. The probability is very great that major Federal activities and programs may affect the species' conservation and recovery.

Management direction. The grizzly bear is an important potential use on the area. Grizzly habitat mainteance and improvement are important management considerations. Grizzly-human conflict minimization is not a management consideration. Habitat and human conditions making the area suitable for grizzly occupancy will not be degraded pending decisions regarding reestablishment of grizzlies.

Management Situation 5

Population and habitat conditions. Grizzlies do not occur, or occur only rarely in the area. Habitat may be unsuitable, unavailable, or suitable and available but unoccupied. The area lacks survival and recovery values for the species or said values are unknown. Major Federal activities and programs probably will not affect species' conservation and recovery.

Management direction. Consideration for grizzly bears and their habitat in other resource related decisions is not directed. Maintenance of grizzly habitat is an option. Any grizzly involved in a grizzly-human conflict will be controlled.

Appendix B—Summary of Proposed Changes to Guidelines for Implementation in all Grizzly Bear Habitats in the Western U.S.

1. Creation of Management Situation 2A

A. *Proposed Change.* A new Management Situation would be created and added to the current five Situations. The new Management Situation would be a modification of the current Management Situation 2, and would be designated Management Situation 2A. Management Situation 2A grizzly bear population, habitat conditions and management direction are summarized as follows:

Management Situation 2A

Population and habitat conditions: Grizzly bear populations and suitable habitat are known or highly suspected to occur. However, the size or characteristics of the populations, and/or the importance of the habitats are not known well enough to be classified as Management Situation 1 (necessary for recovery) or Management Situation 2 (unnecessary for recovery). The effects of major Federal activities or programs on conservation and recovery of the species needs further evaluation.

Management direction: Grizzly bear needs must be balanced with other resource uses on a case-by-case basis. When other resource activities and grizzly bear needs are mutually exclusive, the other resource uses may be accommodated to the extent that they: (1) do not result in irretrievable/irreversible resource commitments, which preclude the possibility of eventual reclassification to Management Situation 1; or (2) do not result in increased human-caused grizzly bear mortality. Irretrievable/irreversible resource commitments refer to establishment of structures or facilities which result in permanent/semipermanent human occupancy, such as developed campgrounds, administrative sites, ski resorts, etc. Further assessment of grizzly bear occurrence and habitat suitability will be a high priority, with the goal of redesignating Management Situation 2A lands to another Management Situation category as soon as adequate information is available. Nuisance grizzly bears will be controlled.

B. *Purpose.* There are some areas, especially in the northern grizzly bear ecosystems, which are believed to have some value to the grizzly bear. However, agencies are uncertain whether these areas are of Management Situation 1 (necessary to survival and recovery) or Management Situation 2 (unnecessary to survival and recovery) significance. The Management Situation 2A designation is proposed as a way of recognizing this uncertainty until such time as appropriate evaluation can be made to redesignate these areas to another Management Situation category.

C. *Consequences.* Creating a new Management Situation designation will provide guidance for interim management of lands until the importance of these lands toward achieving grizzly bear recovery has been fully determined. The new designation will provide an option for resolution of controversy created by previous attempts to designate lands Management Situation 1 or Management Situation 2 without adequate biological data.

2. Application of the Guidelines

A. *Proposed Change.* The Guidelines were originally intended to be applied throughout occupied grizzly bear habitat in the Greater Yellowstone Area. It is now proposed that:

a. The resource management guidelines portion of the Interagency Grizzly Bear Management Guidelines may be modified on a given National Forest or National Park to more directly address the resource situation on that administrative unit (National Forest/National Park/Bureau of Land Management Resource Area).

B. *Purpose.* The original Guidelines were written to address grizzly bear management in the Greater Yellowstone Area. Other ecosystems have differing climates, vegetation composition, resource mixes, human use patterns, bear behavior and habitat use patterns. For example, huckleberries are a relatively minor resource in the Yellowstone Area, but are of major importance in the northern ecosystems. Therefore, adoption of the Guidelines in northern ecosystems should include modification of the management guidelines section to address maintenance or improvement of huckleberry production.

C. *Implication.* The Guidelines on a given unit of Federal land will provide a management tool tailored to facilitating management of the grizzly bear on a specific administration unit basis.

Implementation: Overall direction to achieve grizzly bear recovery, as well as specific delineation of grizzly bear Management Situations, is currently being addressed by the Forest Service as part of the Forest Land and Resource Management Planning process. Other Federal agencies have identified grizzly bear management situations in conjunction with unit plans presented in Environmental Analysis or Environmental Impact Statement documents, or will do so in the future in accordance with the National Environmental Policy Act process.

[FR Doc. 85-12681 Filed 5-24-85; 8:45 am]
BILLING CODE 3410-11-M

Federal Register

Tuesday
May 28, 1985

Part IV

Department of Health and Human Services

Public Health Service

Announcement of Availability of Grants for National Demonstrations of Adolescent Family Life Programs; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Announcement of Availability of Grants for National Demonstrations of Adolescent Family Life Programs

AGENCY: Office of Adolescent Pregnancy Programs, PHS, HHS.

ACTION: Notice.

SUMMARY: This is to announce the availability of grant funds for National Demonstrations of Adolescent Family Life Programs. These grants are for demonstration projects which test new approaches to providing care services for pregnant adolescents and adolescent parents or prevention services to reach adolescents before they become sexually active as authorized by Title XX of the Public Health Service Act (42 U.S.C. 300z, et seq.). The demonstration projects must be national in scope in that they include a minimum of two sites or test areas in different Federal regions and the evaluation design permits systematic comparisons of sites.

The Office will also accept competing renewal applications from current grantees whose national demonstration grants are ending September 30, 1985.

ADDRESS: Application kits may be obtained from and applications must be submitted to: Grants Management Office, Office of Adolescent Pregnancy Programs, OPA, Room 1351, HHS North Building, 330 Independence Avenue, SW., Washington, D.C. 20201.

DATE: Applications must be postmarked or received at the above address no later than July 8, 1985.

FOR FURTHER INFORMATION CONTACT: Grants Management Office at area code 202/245–0146 or Program Office at area code 202/245–7473. Staff are available to answer questions and provide limited technical assistance in the preparation of grant applications.

SUPPLEMENTARY INFORMATION: Title XX of the Public Health Service Act, 42 U.S.C. 300z *et seq.*, authorizes the Secretary of Health and Human Services to award grants for demonstration projects to provide services to pregnant and nonpregnant adolescents, adolescent parents and their families. (Catalog of Federal Assistance Number 13.995.) This notice announces the availability of approximately $1.5 million in funding for national demonstration projects for care or prevention services. It is anticipated that 5–6 projects can be funded, with an average award of $300,000. Grants may be approved for project periods of up to five years. Priority will be given to those projects that can be completed in three years. Grants are funded in annual increments (budget periods). Funding for all approved budget periods beyond the first year of the grant is contingent upon satisfactory progress of the project, adequate stewardship of Federal funds and availability of funds. A grant award may not exceed 70% of the total costs of the project for the first and second years, 60% of the total costs for the third year, 50% for the fourth year and 40% for the fifth year. Non-Federal contributions may be in cash or in-kind, fairly evaluated, including plant, equipment, or services. We summarize below the statutory background of the grant program and describe the procedures for applying for grants pursuant to this notice.

Statutory Background

Title XX authorizes grants for three types of demonstration projects: (1) Projects which provide "care services" only (i.e., services for the provision of care to pregnant adolescents, adolescent parents and their families); (2) projects which provide "prevention services" only (i.e., services to prevent adolescent premarital sexual relations), and (3) projects which provide a combination of care and prevention services. However, in this program notice we do not propose to consider or fund any combination projects.

The specific services which may be funded under Title XX are the following:

(1) Pregnancy testing and maternity counseling;

(2) Adoption counseling and referral services which present adoption as an option for pregnant adolescents, including referral to licensed adoption agencies in the community if the eligible grant recipient is not a licensed adoption agency;

(3) Primary and preventive health services including prenatal and postnatal care;

(4) Nutrition information and counseling;

(5) Referral for screening and treatment of venereal disease;

(6) Referral to appropriate pediatric care;

(7) Educational services relating to family life and problems associated with adolescent premarital sexual relations, including:

(a) Information about adoption;

(b) Education on the responsibilities of sexuality and parenting;

(c) The development of material to support the role of parents as the provider of sex education; and,

(d) Assistance to parents, schools, youth agencies, and health providers to educate adolescents and preadolescents concerning self-discipline and responsibility in human sexuality;

(8) Appropriate educational and vocational services and referral to such services;

(9) Referral to licensed residential care or maternity home services;

(10) Mental health services and referral to mental health services and to other appropriate physical health services;

(11) Child care sufficient to enable the adolescent parent to continue education or to enter into employment;

(12) Consumer education and homemaking;

(13) Counseling for the immediate and extended family members of the eligible person;

(14) Transportation;

(15) Outreach services to families of adolescents to discourage sexual relations among unemancipated minors; (and)

(16) Family planning services. See (Sec. 200(a)(4)) of Title XX of the Public Health Service Act.

No funds provided for a demonstration project for services under Title XX may be used for the provision of family planning services (other than counseling and referral services) to adolescents unless appropriate family planning services are not otherwise available in the community. Maximum use of available Title X family planning moneys must be utilized.

Applicants for care projects are required to provide, either directly or by referral, 10 core services which together comprise a comprehensive program of health, education and social services. The services described in subparagraphs (1), (2), (3), (4), (5), (6), (7), (8), and (10) are core services The services described in (16) are permissible services only when appropriate family planning services are not otherwise available in the community. In all other cases, no funds under this Title may be used for the provision of family planning services. However, counseling and referral for family planning services must be provided as a core service.

Applicants for prevention projects are not required to provide any specific number of services. Under the statute, the services described in subparagraphs (1), (4), (5), (7), (8), (13), (14), and (15) are prevention services. Applicants may request funding for any one or more, as appropriate for the proposal.

This announcement seeks applications from organizations which can develop and implement a national demonstration in a minimum of two

sites throughout the country. These demonstrations will systematically test a model or models in a number of sites or test areas in different Federal regions. Projects should use field experiments, quasi-experimental or experimental designs, or other innovative research methods in order to determine program effects, both short- and long-term, in client populations.

Eligible Applicants

Any public or private nonprofit organization or agency is eligible to apply for a grant. Grants are awarded only to those organizations or agencies which demonstrate the capability of providing the proposed services.

Application Requirements

Applications must be submitted on the forms supplied and in the manner prescribed in the application kits available from the Office of Adolescent Pregnancy Programs (OAPP). Applicants are required to submit an application signed by an individual authorized to act for the applicant agency or organization and to assume for the organization the obligations imposed by the terms and conditions of the grant award. Applicants are required to submit an original application and two copies.

A copy of the legislation governing this program will be sent to applicants as part of the application kit package. Applicants should use the legislation to guide them in developing their applications. All applicants should review and must comply with the requirements for applications in 2006(a).

Applicants should include pay particular attention to providing:

(1) A description of the project's goals and objectives.

(2) A description of sites and organizations to be involved in the implementation of the demonstration program. Evidence should be provided of the organization's ability to conduct the demonstration project in the designated sites and to provide rigorous evaluation of the data.

(3) An overall evaluation design which tests the intervention of the demonstration project. This design should identify the critical issues to be examined; define the relationships among key variables; and propose relevant hypotheses, outcome measures, associated data requirements, comparison/control group recruitment strategies, and statistical methods to be employed.

Awards will be made only to those applicants who have met all applicable statutory requirements. OAPP will consider applications providing care or prevention services only but not a combination of care and prevention services.

All projects must fulfill the applicable statutory requirements for care or prevention projects. It should be noted that grantees must not teach or promote religion in the Adolescent Family Life Title XX program. Each program shall be designed so as to be, to the extent possible, accessible to the public generally.

Care Programs—Under the statute the purpose of care programs is to establish innovative, comprehensive, and integrated approaches to the delivery of care services for pregnant adolescents, with primary emphasis on unmarried adolescents who are 17 years of age or under, and for adolescent parents and their families, which shall be based upon an assessment of existing programs and, where appropriate, upon efforts to establish better coordination, integration, and linkages among such existing programs in order to:

(A) Enable pregnant adolescents to obtain proper care and assist pregnant adolescents and adolescent parents to become productive independent contributors to family and community life; and

(B) Assist families of adolescents to understand and resolve the societal causes which are associated with adolescent pregnancy.

Within the context of providing the required core plus necessary supplemental services and developing evaluation strategies, applicants should pay particular attention to these aspects of Title XX:

- The promotion of adoption as an alternative to early parenting
- Involvement of the families of pregnant adolescents and adolescent parents, including the adolescent father
- Provision of services after delivery. (This is the continuation of necessary services to clients until adolescent parents have become or are well on their way to becoming "productive independent contributors to family and community life" and their children are developing normally physically, intellectually, and emotionally. Proposals should specify the services to be provided, the means of identifying clients' need for services, and the system for tracking clients for a period of at least two years following delivery.)
- Supporting parents as primary sex educators.

Prevention Programs—The purpose of prevention programs is to find an effective means within the context of the family of reaching adolescents before they become sexually active in order to maximize the guidance and support available to adolescents from parents and other family members, and to promote self-discipline and other prudent approaches to the problem of adolescent premarital sexual relations, including adolescent pregnancy.

Evaluation

Section 2006(b)(1) requires each grantee to expend at least one percent but not more than five percent of the funds received under Title XX on evaluation of the project. While the statute allows waiver of the five percent limit on evaluation (see section 2006(b)(1)), waivers are rarely granted. Therefore, applicants who anticipate evaluation costs in excess of the limit should exhaust all possible alternative sources of funds before considering requesting a waiver for an evaluation amount in excess of five percent. Sec. 2006(b)(2) requires that an organization or an entity independent of the grantee providing services assist the grantee in evaluating the project. Applicants should provide evidence of their working arrangements with a college or university located in the applicant's State to meet this statutory requirement. Applicants should also describe in detail measures of program performance, data collection methods, and a plan for analyzing the data.

Additional Requirements

In addition to the above, applicants for grants must meet the following requirements:

(1) Requirements for Review of an Application by the Governor

Section 2006(e) of the Public Health Service Act requires that each applicant shall provide the Governor of the State in which the applicant is located a copy of each application submitted to the Secretary for a grant for a demonstration project for services under this Title. The Governor shall submit to the applicant comments on any such application within the period of 60 days beginning on the day when the Governor receives such copy. The applicant shall include the comments of the Governor with such application.

An applicant may comply with this requirement by submitting a copy of the application to the Governor of the State in which the applicant is located at the same time the application is submitted to OAPP. To inform the Governor's office of the reason for the submission, a copy of this notice should be attached to the application. The Governor has 60 days in which to provide comments to the applicant.

The applicant must provide a copy of the comments or verification that there were no comments to the above address by September 23, 1985.

(2) Review Under Executive Order 12372

Applications under this announcement are subject to the review requirements of Executive Order 12372, State Review of Applications for Federal Financial Assistance, as implemented by 45 CFR Part 100. As soon as possible, the applicant should discuss the project with the State Single Point of Contact (SPOC) for each State in the area to be served. The application kit contains the currently available listing of the SPOCs which have elected to be informed of the submission of applications. For those States not represented on the listing, further inquiries should be made by the applicant regarding the submission to the relevant SPOC. The SPOCs comment(s) should be forwarded to the Grants Management Office, Office of Population Affairs, Room 1351, HHS North Building, 330 Independence Avenue, SW., Washington, D.C. 20201. Such comments must be received by the Office of Population Affairs by September 23, 1985 to be considered. In the event that an application is submitted to the Office of Population Affairs without notification to the SPOC, the SPOC will be notified of the submission.

(3) Health Systems Agency (HSA) Review

In order to comply with the HSA review requirements under section 1513(e) of the Public Health Service Act, 42 U.S.C. 3001-2(e), as amended, applicants must contact the HSA responsible for the area to be served by the proposed project to determine whether or not the HSA desires to review the application. If so, a copy of the application must be submitted to each HSA for review no later than July 8, 1985. Applicants are advised to contact the local HSA as soon as a decision is made to apply for a grant for detailed information on meeting this review requirement. Applications will not receive a formal review by OAPP without satisfying this requirement.

Application Consideration and Assessment

Applications which are judged to be late or which do not conform to the requirements of this program announcement will not be accepted for review. Applicants will be so notified, and the applications will be returned.

All other applications will be subjected to a competitive review and assessment by qualified persons. The results of this review will assist the Director of the Office of Adolescent Pregnancy Programs in considering competing applications and in making the final funding decisions.

Eligible competing grant applications will be reviewed and assessed against the following criteria:

1. The applicant's provision for the requirements set forth in section 2006(a) of Title XX of the Public Health Service Act (10 points).

2. The capacity of the proposed applicant organization and staff to provide the appropriate services and to evaluate the results (15 points).

3. The applicant's presentation of the project's objectives, the methods for achieving project objectives, the workplan and the results or benefits expected (25 points).

4. The applicant's documentation of the innovativeness of the program approach, its worth for testing and replication, (25 points).

5. The estimated cost of the project to the government is reasonable considering the anticipated results (5 points).

6. The applicant's detailed evaluation plan indicates an understanding of program evaluation methods and reflects a practical, technically sound approach to assessing the project's achievement of program objectives. A workplan should be included to indicate the extent and nature of the involvement of a local State college or university in this effort (20 points).

In making grant award decisions the Director of OAPP will take into account the extent to which grants approved for funding will provide an appropriate distribution of resources throughout the country taking into consideration such things as the following factors:

1. The priorities in section 2005(a) of Title XX of the Public Health Service Act.

2. The geographic area to be served.

3. The community commitment to and involvement in the planning and implementation of the demonstration project.

4. The nature of the organization applying.

5. The population to be served.

6. The organizational models for delivery of service.

7. The usefulness for policymakers and service providers of the proposed project and its potential for complementing existing AFL demonstration models.

8. Where projects are of approximate equal quality and there are insufficient funds to fund both, priority will be given to those that can be completed in three years.

When final funding decisions have been made, all applicants will be notified by letter of the outcome of their applications. The official document notifying an applicant that a project application has been approved for funding is the Notice of Grant Award, which specifies to the grantee the amount of money awarded, the purpose of the grant, the terms and conditions of the grant award, the budget period for which support is being given, and the amount of funding to be contributed by the grantee to project costs.

Dated: May 22, 1985.

JoAnn Gasper,

Deputy Assistant Secretary for Population Affairs.

[FR Doc. 85-12748 Filed 5-24-85; 8:45 am]

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federal register

Tuesday
May 28, 1985

Part V

Uniform Relocation Assistance and Real Property Acquisition; Notice of Proposed Rulemaking

Department of Agriculture
Department of Energy
National Aeronautics and Space Administration
Department of Commerce
Department of Housing and Urban Development
Department of Labor
Department of Defense
Department of Education
Pennsylvania Avenue Development Corporation
Veterans Administration
Environmental Protection Agency
General Services Administration
Department of the Interior
Department of Justice
Federal Emergency Management Agency
Department of Health and Human Services

DEPARTMENT OF AGRICULTURE

7 CFR PART 21

DEPARTMENT OF ENERGY

10 CFR PART 1039

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR PART 1208

DEPARTMENT OF COMMERCE

15 CFR PART 11

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR PARTS 42 AND 43

DEPARTMENT OF LABOR

29 CFR PART 12

DEPARTMENT OF DEFENSE

32 CFR PART 259

DEPARTMENT OF EDUCATION

34 CFR PART 15

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

36 CFR PART 904

VETERANS ADMINISTRATION

38 CFR PART 25

ENVIRONMENTAL PROTECTION AGENCY

40 CFR PART 4

GENERAL SERVICES ADMINISTRATION

41 CFR PARTS 101-6, 101-18 AND 105-51

DEPARTMENT OF THE INTERIOR

41 CFR PART 114-50

DEPARTMENT OF JUSTICE

41 CFR PART 128-18

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR PART 25

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR PART 15

Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs

AGENCIES: Department of Agriculture; Department of Commerce; Department of Defense; Department of Education; Department of Energy; Department of Health and Human Services; Department of Housing and Urban Development; Department of the Interior; Department of Justice; Department of Labor; Environmental Protection Agency; Federal Emergency Management Agency; General Services Administration; National Aeronautics and Space Administration; Pennsylvania Avenue Development Corporation; Veterans Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed regulation provides for the implementation of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act), which requires that owners of real property to be acquired for Federal or federally assisted programs and persons displaced from their dwellings, businesses, or farms as a result of such acquisition be provided fair, consistent, and equitable treatment. This proposed regulation would amend current Uniform Act regulations and would implement the Uniform Act for all affected programs within the executive branch except for the Department of Transportation (DOT). DOT published a final rule implementing the Uniform Act on March 5, 1985, at 50 FR 8955.

DATES: To be assured of consideration, comments on the proposed rules must be in writing and must be received on or before July 29, 1985. Comments should refer to specific sections in the regulation.

ADDRESSES: See individual agencies below.

FOR FURTHER INFORMATION CONTACT: See individual agencies below.

SUPPLEMENTARY INFORMATION: To promote the uniform and effective administration of Federal and federally assisted relocation assistance and real property acquisition, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601) authorizes and directs the heads of Federal agencies to consult together on the establishment of regulations and procedures for the administration of such programs.

In May 1982, the Office of Management and Budget (OMB) formed a Uniform Act Interagency Regulatory Review Working Group to review existing Federal agency regulations which implement the Uniform Act and to develop recommendations for uniform regulations to be issued by each covered agency to implement the Act. This was done in response to concerns expressed by State and local governments through the President's Task Force on Regulatory Relief. This effort also was influenced by a report from the Comptroller General to the Congress dated March 8, 1978, entitled "Changes Needed in the Relocation Act to Achieve More Uniform Treatment of Persons Displaced by Federal Programs."

In this report, the Comptroller General indicated that "GAO found an inconsistent, inequitable, and confusing array of differing formats, terminologies, and guidelines in 13 Federal agencies' regulations resulting in people being treated differently when displaced by these agencies." Among other suggestions, GAO recommended adoption of a single set of Federal regulations to implement the Uniform Act.

Legislative proposals subsequently introduced in the Congress have called for a single governmentwide Uniform Act regulation to improve consistency of treatment of affected property owners and displaced persons and to ease existing administrative burdens. None of the proposals, however, has been enacted into law.

In addition to the Working Group, OMB also established a policy-level Interagency Regulatory Review Steering Group. The Steering Group and the Working Group, both chaired by OMB, included representatives from the Department of the Army (Corps of Engineers), the Department of Housing and Urban Development, the Department of the Interior, the Department of Transportation, and the Environmental Protection Agency.

The Working Group found that currently there are approximately 20 separate Federal regulations and procedures implementing the Uniform Act. These differences have resulted in inconsistencies and inequities in the treatment of affected property owners and displaced persons, as well as costly and unnecessary administrative burdens on State and local governments.

Following its review of the Working Group's recommendations, the policy-level Steering Group recommended that a proposed regulation be published for public comment by a single agency. The Department of Transportation did so (on April 14, 1983, at 48 FR (16197) at the request of the Office of Management and Budget One hundred and thirty-one (131) commenters, representing Federal, State and local agencies, professional organizations, consultants, and private citizens, submitted comments to the docket. These comments were reviewed by the Working Group. The Working Group's recommended final rule was submitted to the Office of Management and Budget and all other interested Federal agencies for review. The final

regulation, which serves as the DOT regulation implementing the Uniform Act, was published in the **Federal Register** on March 5, 1985. On February 27, 1985, the President directed the other affected executive branch agencies to propose and adopt a common regulation, based on the DOT final rule, implementing the Uniform Act. Those agencies are hereby doing so and are now seeking comment on the proposed rulemaking.

Until recently, the responsibility to coordinate the implementation of the Uniform Act, and to chair the Relocation Assistance Implementation Committee (RAIC) established in 1971, was vested in the General Services Administration by the President's memorandum of September 6, 1973. The President's February 27, 1985, memorandum, published in the **Federal Register** (50 FR 8953) March 5, 1985, named DOT as the agency with lead responsibility. All existing agency regulations (except those just promulgated by DOT) will be superseded by the regulations eventually adopted under this common rulemaking.

A description of significant features of the proposed regulation follows. Comments submitted will be reviewed by the Interagency Working Group under the leadership of OMB and DOT. The ultimate goal is to eliminate the present inconsistencies in the treatment of persons whose property is acquired for a Federal or a federally assisted project and persons displaced for such a project, and to treat all such persons equally. This proposed regulation would be applicable to both direct Federal programs and projects and to federally assisted programs and projects undertaken by State and local government agencies. Uniform Act requirements now are carried out under the differing regulations and procedures of approximately 20 separate Federal agencies. Furthermore, this proposed rule would increase the flexibility of State and local government agencies in carrying out the policies set forth in the Uniform Act.

Subpart A—General

Section —.2 Definitions.

The definitions section has been placed near the beginning of the regulation in order to facilitate its use by the reader. Discussions of several key definitions follow.

Section —.2(c) Comparable replacement dwelling.

Among other requirements, a comparable replacement dwelling must be "functionally similar to the displacement dwelling with particular attention to the number of rooms and living space." The reader should see appendix A, subpart A, § —.9(c)(2) of this rule for a discussion of this concept.

Under the Uniform Act a comparable replacement dwelling must be within the financial means of the displaced person. The proposed financial means standard at § —.2(c)(6) would require that a person's basic monthly housing costs after displacement not exceed those costs before displacement. This standard, often referred to as the "make whole" standard, is a change from the current rule of a number of agencies which require that the monthly housing cost for a comparable replacement dwelling not exceed 25% of the person's gross monthly income.

For a person who rents a replacement dwelling, the "make whole" standard would mean that the cost of rent and utilities at a comparable replacement dwelling must not exceed the cost of rent and utilities at the displacement dwelling. For a 180-day homeowner purchasing a replacement dwelling, the standard would be met if the person were reimbursed for (1) the entire difference, if any, between the sale price of the displacement dwelling and the purchase price of a replacement dwelling as described at § —.401(d); (2) all increased mortgage costs as described at § —.401(e); and (3) all incidental expenses incurred in buying a replacement dwelling as described at § —.401(f).

Section —.2(d) Contributes materially.

The proposed rule provides a definition of this term which includes a method for determining material contribution. (See also § —.2(h) Farm operation.)

Section —.2(f)(2) Persons not displaced.

In some cases, an agency acquires real property without the intent or necessity of requiring a tenant-occupant to relocate permanently. Section —.2(f)(2)(iii) of the regulations would permit an agency to determine that any tenant who is not required to relocate permanently as a direct result of the project is not a "displaced person" and, therefore, is not eligible for relocation assistance under these regulations.

Section —.2(k) Initiation of negotiations.

The initiation of negotiations triggers basic eligibility for relocation assistance. In most cases, initiation of negotiations is the acquiring agency's delivery of its initial written offer to purchase real property for a specific amount determined to be just compensation. However, the definition also includes special situations in which the basic definition does not apply. These are when program regulations specify another action to serve the same purpose, certain cases in which the acquiring agency issues a notice of its intent to acquire real property, and permanent relocations under the "Superfund" program.

In particular, the definition of "initiation of negotiations" includes language which has been designed to accommodate considerations of the Superfund program (the Comprehensive Environmental Response, Compensation and Liability Act of 1980; Pub. L. 96–510). Under Executive Order 12316 (46 FR 42237, August 20, 1981), the Federal Emergency Management Agency (FEMA) is charged with responsibility for providing for the permanent relocation of residents, businesses, and community facilities where, due to the presence of a hazardous substance, such relocation is necessary to protect the public health or welfare.

It is not unusual for those whose property will be purchased under Superfund to have moved from such property once the presence of a hazardous substance if formally identified or a Federal permanent relocation (buyout) is announced. The Federal Government may well encourage these individuals to leave and will probably provide temporary relocation for them. At the time of enactment of the Uniform Act in 1970, Superfund had not been passed and the prospect of permanent relocation by the Federal Government in connection with the presence of a hazardous substance was not specifically contemplated. However, it would be inconsistent with both Superfund and the Uniform Act to deny relocation assistance to such persons for failure to satisfy Uniform Act occupancy requirements solely because they evacuated an area prior to the agency's delivery to the owner of the initial written offer to purchase real property.

In circumstances where a permanent relocation under Superfund has been formally announced or there has been a Federal or federally coordinated health advisory and permanent relocation is later undertaken by the Federal Government, for the purpose of determining eligibility for replacement housing payments, "initiation of negotiations" occurs at the time of such announcement or health advisory. As a result of so defining "initiation of negotiations," owners and tenants will not be prevented from satisfying the

180-day (for owners) and the 90-day (for tenants) occupancy requirements necessary to be eligible for replacement housing payments. These occupancy requirements appear at §§ —.401(a)(1) and —.402(a)(1) for conventional housing and §§ —.503(a) and —.504(a) for mobile homes.

Section —.3 No duplication of payments.

Section —.3 would expand the current rules prohibiting duplicate compensation to ensure that a person does not receive any payment under these regulations that has the same purpose and effect as a payment the person receives under Federal, State or local law. The current rules prohibit only payments that duplicate compensation which the person receives under the State law of eminent domain and which is part of the cost of the project.

Section —.4 Assurances, monitoring, and corrective action.

In order to reduce the paperwork burden on assistance recipients, the proposed rule allows a State agency to provide its assurance of compliance with the Uniform Act at one time to cover all subsequent federally assisted projects rather than having to submit them with each project. The rule also requires that agencies carry out the Uniform Act in a manner which minimizes fraud, waste, and mismanagement.

Section —.6 Administration of jointly funded projects.

The proposed rule allows the designation of one Federal agency as the "cognizant agency" when two or more Federal agencies provide financial assistance for functionally or geographically related activities involving acquisition of real property or displacement. The designation of a cognizant agency must be by a written agreement specifying the scope of the cognizant agency's authority. This procedure will encourage consistent treatment of persons similarly situated and will minimize the need for State agencies to have to conform with differing Federal agency procedures.

Section —.7 Federal agecy waiver of regulations.

In order to increase recipients' flexibility in administering the Uniform Act and to minimize the burden of Federal regulation, the proposed rule allows a Federal funding agency to waive any provision of this part not required by law when it determines that such waiver does not reduce assistance or protection provided to owners or displaced persons.

Section —.9 Recordkeeping and reports.

The proposed rule eliminates a number of detailed recordkeeping requirements and substitutes a standard of "sufficient detail to demonstrate compliance" with the Uniform Act regulations. A number of agencies currently require an annual report on Uniform Act activities. The proposed rule allows each Federal funding agency to determine whether to require a report on Uniform Act activities from its recipients, but limits such reports to no more frequently than every three years and limits coverage to the 12 months preceding the year in which a report is required.

Section —.10 Appeals.

Section —.10 provides an appeals process for persons who believe that the agency failed to determine properly their eligibility or the amount of relocation payments under the proposed rule (it also covers certain expenses in connection with the acquisition of real property; see §§ —.106 and —.107).

The proposed process provides for review by the Federal agency or by the State agency which is the recipient (grantee) of Federal financial assistance. Some agencies currently allow appeals to the Federal funding agency; the proposed rule does not provide for this. In addition, the proposed rule permits a displacing agency to require that appeals be filed within 60 days of the agency determination which is being appealed. A number of agencies currently allow appeals within six months of the determination. Finally, the proposed rule requires agencies to notify appellants in writing of appeals decisions.

Subpart B—Real Property Acquisition

Section —.101 Applicability of acquisition requirements.

Section —.101 (a), (b), and (c) indicate the scope of the real property acquisition policies and procedures at subpart B. The Uniform Act and the regulations at subpart B apply to the acquisition of real property by a Federal agency or by a State or State agency for a federally assisted program or project. In such cases, it does not matter whether the Federal financial assistance is used to fund the acquisition of the property. However, this subpart does not apply to voluntary acquisition not under the threat of eminent domain, where the owner is informed, in writing, in advance that the property will not be acquired if an amicable agreement is not reached.

Appendix A, subpart B, § —.101(a) discusses the concept of voluntary transactions. It should be noted, however, that tenants displaced by such voluntary acquisitions are covered by the Uniform Act and are entitled to the benefits provided thereunder by the relocation and related provisions of this proposed rule.

Section —.101(b) Less-than-full-fee interest in real property.

It is important for the reader to note that the requirements of this subpart apply not only to fee simple acquisitions of real property but also to the acquisition of less-than-full-fee interests, such as permanent easements and long term leases. While the proposed rule defines the latter as 50 years or more (including options to extend), it would not be in the public interest to determine that these regulations do not apply solely because the term of the lease fell marginally short of 50 years.

Section —.101(c) Federally assisted projects.

Section —.101(c) provides that, for State and State agency projects carried out with Federal financial assistance, §§ —.102, —.103, —.104 and —.105 of the regulations would apply to the extent practicable under the laws of the applicable State. Exceptions to compliance would be addressed in the agency's assurances of compliance made pursuant to section 305 of the Uniform Act.

Section —.102(i) Administrative settlements.

Section —.102(i) addresses those situations where an agency should consider a compromise settlement with the owner as an alternative to instituting condemnation action. While condemnation should be used when appropriate, i.e., regarding matters of substance and importance, it often is time consuming and expensive for both the property owner and the agency. In order to minimize litigation costs and to limit court caseloads, nonjudicial settlements are permitted when it is reasonable, prudent, and in the public interest to do so. Administrative settlements require written justification.

It is intended that administrative settlements be negotiated, reviewed, and approved by program officials. Appraisers, including review appraisers, must not be requested to adjust their fair market value estimates for the purpose of justifying a settlement. Such a change

by an appraiser would invalidate the appraisal process.

Section—.103(e) Qualifications of appraisers.

Rather than setting specific criteria, the rule gives responsibility for determining the qualifications required of appraisers to the acquiring agency. The policy here is to fit the qualifications to the specific appraisal situation and to let the agency make that determination.

Section—.104 Review of appraisals.

The proposed rule provides for an appraisal review process under which all appraisals must be reviewed. This process is intended to insure that all appraisals meet acquiring agency standards. The reader also should see §—.103(f) of the rule concerning conflicts of interest and appendix A, supart B §—.104 for additional material relating to this subject.

Section—.108 Donations.

In order to reduce the cost of acquiring land without reducing the Uniform Act's protection of affected persons, the proposed rule permits the full or partial donation of real property to an acquiring agency, as long as the donor is informed of his right to just compensation. Similarly, an owner of real property may waive his right to an appraisal of his property as long as he is informed of that right. This will allow the acquiring agency to avoid the cost of appraisals in situations where the owner is willing to donate a real property interest, e.g., where he believes the benefit he will receive from the project is greater than the value of the interest being acquired, such as in the case of easements to provide water or sewer lines.

Subpart C—General Relocation Requirements

The proposed rule eliminates the requirement currently found in a number of agencies' regulations for a relocation plan. Such plans can be very expensive, cause significant project delays, and yet be obsolete before being put to use. The proposed rule reflects the view that displacing agencies have demonstrated their understanding of the desirability of identifying and resolving problems in advance in order to minimize project delays and the costs accuring therefrom.

Section—.203 Relocation information and written notices.

In contrast to many existing regulations implementing the Uniform Act, the proposed rule consolidates all significant relocation notices in one place. Section—.203 provides for a general information notice, which provides displaced persons with information concerning relocation payments, eligibility requirements, procedures for obtaining payments, advisory services, and the right to comparable replacement housing. It also provides for a notice of relocation eligibility, which requires that, following the initiation of negotiations, persons to be displaced be notified promptly of their eligibility for relocation benefits. Lastly, it provides for a 90-day notice, which informs persons to be displaced that they will receive at least 90 days advance written notice of the earliest date by which they may be required to move. This should make use of the regulation easier and reduce confusion over the functions of the individual notices.

Section—.204 Availability of comparable replacement dwelling prior to displacement.

Section—.204(a) requires the agency to offer a person to be displaced at least one comparable replacement dwelling before requiring the person to move permanently from the property. When possible, at least three such referrals shall be made.

Section—.207 General requirements: claims for relocation payments.

The reader should note two items concerning claims for relocation payments. First, the time limit for filing a claim has been standardized at 18 months after either the date of displacement or the date of final payment for acquiring the real property, whichever is later. Second, the rule requires Federal agencies and permits State agencies to deduct rent owed the agency by a displaced person as long as such deduction does not prevent the displaced person from obtaining comparable replacement housing.

Subpart D—Payments for Moving and Related Expenses

Section—.303(a)(13) Search costs.

Section—.303(a)(13) describes those expenses incurred by a business person or farm operation searching for a replacement location which may be reimbursed by the agency. Federal agencies generally have limited these payments to $500. The proposed rule would raise this limit to $1,000 per displacement in order to reflect the increased cost of hotel/motel accommodations, transportation, food, and other items.

Section—.304(a)(1) Substantial loss of existing patronage.

A business or nonprofit organization which cannot be relocated without a substantial loss of its existing patronage may qualify for a fixed payment in lieu of a payment for actual moving and related costs it incurs in relocating to a replacement location. The proposed rule provides two criteria which may be used to determine existing patronage: clientele or net earnings. This should allow displacing agencies appropriate flexibility in making this determination. Either criterion or a combination of both may be used, but the reader should note that a business is assumed to meet this test unless the displacing agency can demonstrate otherwise.

Section—.305(j) Physical changes.

The proposed rule makes ineligible the cost of physical changes to the real property at the replacement location of a business, farm, or nonprofit organization. See §—.303(a)(3) for the limited exceptions to this rule.

Subpart E—Replacement Housing Payments

Section—.401 Replacement housing payments for 180-day homeowners.

Section—.401(a) clarifies the occupancy requirement for 180-day homeowners. In order to be eligible for a replacement housing payment for 180-day homeowner-occupants, a displaced person must have occupied a displacement dwelling for the 180 days immediately before the initiation of negotiations. While most Federal displacing agencies have followed this policy, their regulations often did not explicitly state that the occupancy period had to be the 180 days immediately preceding the initiation of negotiations.

If a displaced person does not meet the occupancy requirement explained above solely due to circumstances such as a hospital stay, military reserve duty, or other temporary absence from his dwelling, he shall be considered to be in "constructive occupancy" of his dwelling and, therefore, to meet the 180-day requirement.

Section—.402 Rental assistance payments.

Section—.402(a) describes the occupancy requirement for payments for 90-day occupants. In order to be eligible for this payment, a displaced person must have occupied a displacement dwelling for the 90 days immediately before the initiation of negotiations. The principle of "constructive occupancy"

(see §—.401 above) also applies to 90-day occupants.

Section—.402(b) describes the proposed method for computing rental assistance payments under section 204(1) of the Uniform Act. The reader's attention is invited to the proposed definition of comparable replacement dwelling at §—.2(c) and the use of the "make whole" method in the payment computation. Currently, a number of regulations require the agency to disburse a rental assistance payment in a lump sum, unless the displaced person requests otherwise. Section —.402(b)(3) would authorize an agency, on a case-by-case basis, for good cause, to disburse a rental assistance payment in installments.

Section—.402(b)(2) Utility services.

The proposed rule requires that the cost of utility services be included in the computation of a rental assistance payment, unless the rent for both the displacement and comparable replacement dwellings does not include utilities.

Section—.403(a) Determining the cost of replacement housing.

Currently agency rules provide three methods of determining the cost of a comparable replacement dwelling, i.e., the comparative method (using dwelling units actually available on the market), the schedule method, and alternative methods if the comparative and schedule methods are inappropriate. The proposed rule at §—.403(a)(1) retains only the comparable method.

Section —.403(a)(2) sets forth the procedure to be followed when computing a replacement housing payment if the site of the comparable replacement dwelling is significantly smaller than the displacement dwelling site or lacks a major attribute of the displacement dwelling site (e.g., a swimming pool). When computing the payment, an adjustment would be made in the "acquisition cost" of the displacement dwelling to ensure a fair and equitable comparison of the two dwellings.

Subpart F—Mobile Homes

The attention of the reader is directed to the rules governing moving expenses and replacement housing payments for persons displaced from mobile homes and to the significant differences between mobile homes and concentional housing. These differences arise, in part, because of the physical differences between conventional and mobile homes, the frequent split in ownership between the dwelling and the site, and the varying legal status of mobile homes under State law.

Subpart F sets forth requirements governing the provision of moving expenses and replacement housing payments for a person displaced from a mobile home or a mobile home site. Eligibility for a replacement housing payment is based on the length of time a person owned or rented the mobile home and occupied it on the displacement site.

The present rules of Federal agencies differ as to the policies to be applied when a displaced mobile home occupant owned the displacement mobile home but rented the displacement site, or rented the displacement mobile home but owned the displacement site. Differences also arise with respect to a displaced person who purchases a replacement mobile home but rents the replacement site, or rents a replacement mobile home but purchases the site. Under the proposed rule such a person would be eligible to receive a replacement housing payment that combines a payment for the mobile home with a payment for the mobile home site. Each such payment would be computed under the applicable §—.401 and/or §—.402. However, the total replacement housing payment to a person would not exceed the maximum payment (either $15,000 or $4,000) permitted under the section that governs the computation for the dwelling.

The proposed rule at subpart F would provide fair, equitable, and uniform relocation assistance to all eligible displaced mobile home occupants.

Subpart G—Last Resort Housing

The proposed rule supersedes the current governmentwide rule on last resort housing issued by the Department of Housing and Urban Development (HUD) at 24 CFR Part 43. Subpart G sets forth policies and procedures that maximize the flexibility of agencies seeking to use section 206 of the Uniform Act (last resort housing provisions). By removing unnecessary existing requirements, it allows agencies to design and implement last resort housing measures according to their own needs.

Under the proposed last resort housing rules, agencies no longer would be required to prepare an inventory of housing in the locality, analyze the inventory data, and, in the case of federally assisted projects, obtain the Federal funding agency's approval to proceed with its last resort housing proposal. Similarly, agencies no longer would have to prepare and submit to HUD or the Farmer's Home Administration detailed replacement housing plans which, for federally assisted projects, would have to be approved by the Federal funding agency. Lastly, agencies no longer will have to establish an advisory committee to consult with, advise, and assist in the development of a replacement housing plan when 26 or more units of last resort housing are needed.

Appendices

The reader's attention is directed to the appendices which accompany the proposed rule. Appendix A provides a section-by-section analysis of major portions of the proposed rule; Appendix B provides a report form and instructions for those agencies which elect to require a report on Uniform Act activities.

Executive Order 12291

Executive Order 12291 requires that a regulatory impact analysis be prepared for "major" rules which are defined in the Order as any rule that has an annual effect on the national economy of $100 million or more, or certain other specified effects.

We intend the proposed regulations to result in savings to State and local governments in the costs of administrative grants. However, we do not believe that the regulations will have an annual economic effect of $100 million or more or the other effects listed in the Order. For this reason, we have determined that these regulations are not a major rule within the meaning of the Order.

Regulatory Flexibility Act of 1980

The Regulatory Flexibility Act (5 U.S.C. 605(b)) requires that, for each rule with a "significant economic impact on a substantial number of small entities," an analysis be prepared describing the rule's impact on small entities and identifying any significant alternatives to the rule that would minimize the economic impact on small entities.

The head of each of the agencies covered by this notice, or delegatee, has certified that these proposed regulations, if adopted, will not have a significant economic impact on a substantial number of small entities. The provisions of the Uniform Act which provide the benefits covered by the proposed rule have not changed. The primary impact of the proposed rule is expected to be the elimination of unnecessary administrative requirements and the consequent reduction of burden on affected entities.

Paperwork Reduction Act

These proposed regulations contain collection of information requirements subject to the Paperwork Reduction Act. These requirements are necessary in order to demonstrate compliance with the relocation and acquisition regulations. The collection of information requirements contained in these regulations have been submitted, or are being simultaneously submitted, to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act. Comments from the public on these collection of information requirements are invited and shall be addressed to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 21

ADDRESS: Comments should be sent to: Mr. Frank Gearde, Jr., Director, Office of Operations, United States Department of Agriculture, Room 113W–Administration Building, 14th & Independence Avenue SW., Washington, D.C. 20250. Comments will be available for review at the above address from 9:00 a.m. to 3:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Frank W. Bright, Realty Specialist, Office of Operations, United States Department of Agriculture, Room 1566–South Building, 14th & Independence Avenue SW., Washington, D.C., 20250, Area Code 202, Telephone No. 447–5225. Office hours Monday through Friday from 8:00 a.m. to 4:30 p.m.

ADDITIONAL SUPPLEMENTARY INFORMATION: The United States Department of Agriculture (USDA) first published its regulations implementing the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970 (42 U.S.C. 4601 et seq.) in the Federal Register on April 30, 1973. All Federal agencies which are subject to the Uniform Act are now proposing to jointly promulgate a common model rule.

The Department's existing regulations in 7 CFR Part 21, implementing the Uniform Act, parallel the language in the proposed model rule. It is the Department's opinion that the proposed model rule contains no major significant changes that would impose an adverse economic effect on programs administered by the USDA. However, the proposed model rule does provide clarifying language which will correct the inconsistencies and inequities that currently exist in the acquisition of real property and the reimbursement to displacees of Federal and federally assisted projects.

Specific differences between the present USDA regulations and the proposed regulations are identified as follows:

Subpart A—General

Section 21.9 (c) Reports.

The proposed rule allows USDA to determine whether to require a report on Uniform Act activities from its recipients, but limits such reports to no more frequently than every three years and limits coverage to 12 months preceding the year in which a report is required. USDA's regulations heretofore have been silent on a reporting requirement.

Section 21.10 Appeals.

The proposed common rule formalizes the appeal process. USDA's regulation recognizes the right of appeal as provided in the Uniform Act, but does not provide for a formal appeals process.

Subpart B—Real Property Acquisition

Section 21.101(a) General.

The proposed common rule applies to any agency acquisition of real property for a Federal or Federally-assisted project except for voluntary transactions; whereas USDA's regulation excludes acquisition by donations or land exchanges.

Section 21.108 Donations.

The proposed common rule's treatment of donations requires that an agency obtain an appraisal and offer just compensation due, unless the owner releases the Agency from these obligations. As specified in § 25.101(a) above, the current USDA regulations exclude acquisition by donations.

Subpart D—Payment for Moving and Related Expenses

Section 21.304(d) Nonprofit organizations.

The proposed common rule provides for a fixed payment of $2,500, when a displaced nonprofit organization elects a fixed payment in lieu of payment for actual moving and relating expenses. Under the same circumstances, USDA regulations currently provide for a payment of not less than $2,500 nor more than $10,000.

List of Subjects in 7 CFR Part 21

Relocation assistance; Real property acquisition.

It is proposed that Title 7 of the Code of Federal Regulations be amended by revising Part 21 as set forth at the end of this document.

Issued in Washington, D.C., May 9, 1985.

John J. Franke, Jr.,

Assistant Secretary for Administration.

PART 21—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION FOR FEDERAL AND FEDERALLY ASSISTED PROGRAMS

Subpart A-General

Sec.

Subpart B—Real Property Acquisition

Subpart C—General Relocation Requirements

Subpart D—Payments for Moving and Related Expenses

Authority: Sec. 213, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. 91-646, 84 Stat 1900 (42 U.S.C. 4633).

DEPARTMENT OF ENERGY

10 CFR Part 1039

ADDRESS: Comments should be sent to: Office of Project and Facilities Management, United States Department of Energy, 1000 Independence Avenue SW., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT:

Donald G. Trost, MA-222, Realty Officer and Group Leader, Real Property and Facilities, Management Division, United States Department of Energy, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-1191

John Herrick, Esq, GC-44, United States Department of Energy, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-8618.

ADDITIONAL SUPPLEMENTARY INFORMATION:

List of Subjects in 10 CFR Part 1039

Real property acquisition, Relocation assistance, Reporting and recordkeeping requirements.

It is proposed that Chapter X of Title 10 of the Code of Federal Regulations be amended by adding Part 1039 as set forth at the end of this document.

Dated: May 14, 1985.

Martha Hesse Dolan,

Assistant Secretary Management and Administration.

PART 1039—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION FOR FEDERAL AND FEDERALLY ASSISTED PROGRAMS

Authority: 161g of the Atomic Energy Act of 1954 (42 United States Code 2201); Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 United States Code 4601).

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1208

ADDRESS: Comments should be addressed to NASA, Code NXG, Washington, DC 20546. They will be available for public examination in Room 126, 600 Independence Avenue SW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Gitta G. Haber, 202-453-1960.

List of Subjects in 14 CFR Part 1208

Uniform relocation assistance, Real property, Relocation, Federally-assisted programs, Housing, Real property acquisition, Relocation requirements, Replacement housing, Mobile homes, Moving and related expenses.

It is proposed that Title 14 of the Code of Federal Regulations be amended by adding Part 1208 as set forth at the end of this document.

James M. Beggs

Administrator.

PART 1208—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION FOR FEDERAL AND FEDERALLY-ASSISTED PROGRAMS

Authority: 42 U.S.C. 4601, Sec. 213.

DEPARTMENT OF COMMERCE

15 CFR Part 11

ADDRESS: Comments should be sent to: Office of Administrative Services Management, United States Department of Commerce, Room 6319, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Mary DiGiulian, Director, *Office of Administrative Services Management, United States Department of Commerce, Washington, D.C. 20230 (202)377-0884*

List of Subjects in 15 CFR Part 11

Relocation assistance and real property acquisition, Reporting and record keeping requirements.

It is proposed that Title 15 of the Code of Federal Regulations be amended by adding Part 11 as set forth at the end of this document.

Hugh L. Brennan,

Director, Procurement and Administrative Services.

PART 11—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION FOR FEDERAL AND FEDERALLY ASSISTED PROGRAMS

Authority: Section 213 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. 91-646, 84 Stat. 1894, (42 U.S.C. 4601).

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 42 and 43

[Docket No. R-85-1239; FR-2106]

ADDRESS: Comments should be sent to the Office of General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410. Comments should refer to the above docket number and title. A copy

of each comment submitted will be available for public inspection and copying during regular business hours at this address.

FOR FURTHER INFORMATION CONTACT: Melvin Geffner, Deputy Director, Roland Brown, Georgian Carter, or Alvin West, Relocation and Real Estate Division, Room 7174, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410. Telephone (202) 755-6336. (This is not a toll-free number.)

ADDITIONAL SUPPLEMENTARY INFORMATION: Federal agencies are promulgating jointly a proposed rule to implement cost-effective policies and procedures governing the implementation of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601). The proposed rule would be applicable to both direct Federal programs and projects and to federally-assisted programs and projects undertaken by State and local governments.

When final, this regulation will supersede the existing HUD regulations governing Uniform Relocation Assistance and Real Property Acquisition found at 24 CFR Part 42 and Part 43, Subpart A. The common preamble above describes most of the principal changes that would be made to the current HUD regulation. Other changes and significant features that the Department wishes to highlight are discussed below.

Section 42.2(c) Comparable replacement housing.

The proposed "make whole" standard at § 42.2(c)(6) would be a change from the current HUD rule (24 CFR 42.45(f)) which requires that the monthly housing cost for a comparable replacement dwelling not exceed 25 percent of the displaced person's gross monthly income.

Section 42.2(e) Decent safe and sanitary.

The proposed rule would not retain the current HUD requirement (24 CFR 42.47(A)(1)) that a decent, safe and sanitary replacement dwelling (defined at § 42.2(e)) must comply with the requirements of the HUD lead-base paint regulations at 24 CFR Part 35. However, the Department encourages displacing agencies to make every reasonable effort to ensure that replacement housing is free of lead-base paint.

Section 42.2(f)(2) Persons not displaced.

Section 42.2(f)(2)(iii) would supersede the current HUD procedures governing the treatment of tenant-occupants permitted to remain in the real property after acquisition (24 CFR 42.207), including issuance of a "notice of right to continue in occupancy" to each such person.

Section 42.2(k) Notice of intent to acquire property.

Section 42.2(k) would extend relocation assistance to persons moving from the real property between the date the agency furnishes the owner a notice of its intent to acquire the property and the date it delivers the initial written purchase offer to acquire the property.

Section 42.10 Appeals.

Section 42.10 would change the current HUD rule (24 CFR 42, Subpart J) governing administrative appeals in several ways. HUD Field Offices would no longer hear appeals of a displacing agency's decision. Under the proposed rule the agency receiving the grant from HUD would make the final decision.

For example, under the State-administered Small Cities Community Development Block Grant program, the State would review an appeal by a person who is dissatisfied with the determination of the community receiving a grant from the State. A city receiving an entitlement block grant would hear the appeal of a person dissatisfied with the decision of the official approving or disapproving the person's claim. An urban county providing a grant to a municipality would hear the appeal of a person who disagrees with the municipality's determination. A person would, of course, continue to have the right to seek judicial review of his or her appeal on its merits after exhausting the administrative remedies provided in the regulations.

The proposed rule would narrow the scope of those actions that may be appealed by a person under the current HUD rule (24 CFR 42.703(a)) to the displacing agency's determination of the person's eligibility for, or the amount of, a relocation payment and certain expenses in connection with the acquistion of real property.

Under the proposed rule a displacing agency would continue to provide a person a written notification explaining its denial of his or her relocation claim (see § 42.207(g)) as well as a written response explaining its decision on any later appeal. In light of these requirements, the current HUD rule requiring the agency to provide a written response to a person's "oral appeal" (24 CFR 42.705(a)) would be discontinued as unnecessarily burdensome.

Section 42.102(b) Notice to owner of planned acquisition.

Under the current HUD rule (24 CFR 42.105), an acquiring agency must provide early written notice to the property owner of its interest in acquirng his or her property and the basic protections provided by law. The proposed § 42.102(b) would permit the agency to meet this obligation through a verbal explanation. Although a written notice would no longer be required, the Department encourages agencies to continue to provide property owners with a copy of either the HUD brochure, "When a Public Agency Acquires Your Property", or an appropriate substitute statement.

Section 42.102(m) Fair rental for short-term occupancy.

Under the proposed rule (§ 42.102(m)), if a person who is the owner or tenant of the real property at the time of its acquisition by the agency is permitted to occupy it after acquisition on a short-term basis, the rent may not exceed the fair market rent for the property. The term "fair market rent" means the rent paid for the unsubsidized use of similar property in similar areas and, thus, may differ from the Fair Market Rent (FMR) established by HUD under its section 8 housing assistance payments programs. The current HUD requirement (24 CFR 42.215) restricting the rental charge for a dwelling so occupied to 25 percent of the person's gross monthly income would be discontinued. The Department encourages Agencies to consider the person's financial circumstances, however, when establishing the rent for a low- or moderate-income person.

Section 42.103 Criteria for appraisals.

Section 42.103(b) would expand the current HUD rule (24 CFR 42.107) to explain more specifically the contents of an acceptably documented appraisal.

Section 42.103(f) would amend the current HUD conflict of interest rules to permit the same person to both appraise and negotiate an acquisition where the value of the interest to be acquired does not exceed $2,500.

Section 42.104 Review of appraisals.

Section 42.104(a) would require that all appraisals be reviewed by a qualified reviewing appraiser. Under the current HUD rule (24 CFR 42.109(a)) only appraisals of property valued in excess

of $2,000 must be reviewed by a qualified appraiser.

Section 42.105 Acquisition of tenant-owned improvements.

The current HUD rule (24 CFR 42.111(b)) requires an acquiring agency to pay, as just compensation for a tenant-owned real property improvement, the greater of (1) the amount which the improvement contributes to the fair market value of the property (contributory value), (2) the salvage value of the property, or (3) the depreciated replacement cost of the improvement installed. Section 42.105(c) would limit the requirement to payment of the contributory value or salvage value, whichever is higher.

Section 42.203 Relocation information notices.

Section 42.203(a) would amend the current HUD rule to add a requirement that the displacing agency issue a general information notice to each person to be displaced as soon as it is feasible to do so. A significant part of this requirement could be met by providing a copy of the applicable HUD information brochure, "Relocation Assistance to Displaced Homowners", "Relocation Assistance to Displaced Tenants", or "Relocation Assistance to Displaced Businesses, Farms, and Nonprofit Organizations."

Section 42.203(b) would require the displacing agency to issue a notice eligibility for relocation assistance at the time a person's basic eligibility for such assistance is estabished. This notice would replace the "notice of displacement" currently required at 24 CFR 42.209.

Section 42.205 Relocation assistance advisory services.

Section 42.205(b)(2)(i) would make it clear that the displacing agency must provide a person written notification of the specific comparable replacement dwelling, and the price or rent for that dwelling, that the agency will use as the basis for establishing the maximum possible replacement housing payment for which the person may qualify. The agency must also indicate its reasons for selecting that dwelling for such purpose. (See also discussion at § 42.403(a)).

Section 42.205(b)(2)(ii) would amend the current HUD rule (24 CFR 42.211(b)(2)) to permit a displacing agency to refer a person to be displaced to an available replacement dwelling that had not been inspected and determined to be decent, safe and sanitary, provided it notifies the person that if he or she relocates to the dwelling, it must be inspected and determined to be decent, safe and sanitary before a replacement housing payment may be issued.

Section 42.402(b) Rental assistance payment.

Consistent with the change in the financial means test to the "make whole" standard at § 42.2(c)(6), the rental assistance payment authorized at § 42.402(b) would be determined by multiplying the increased cost, if any, for rent and utilities after displacement by 48 (the number of months covered by the payment subsidy). The current HUD rule (24 CFR 42.453) bases the rental assistance payment on the greater of (1) the subsidy computed under the "make whole" standard described above or (2) the amount, if any, necessary to reduce the person's monthly housing cost to 25% of the person's gross income.

Section 42.403(a) Determining the cost of comparable replacement housing.

The upper limit of a replacement housing payment is based on the cost of a representative comparable replacement dwelling. Section 42.403(a) would revise the current HUD rule (24 CFR 42.457(a)) to give a displacing agency the flexibility to base such cost on the probable selling price, rather than the asking price of the comparable replacement dwelling. If the agency computes the replacement housing payment on the basis of the probable selling price, it must document and inform the displaced person in writing of its justification for the adjustment. Because such an adjustment may reduce the amount of the payment, the Department expects displacing agencies to cite specific market data (e.g., asking prices for comparable homes offered for sale, or the sale prices of comparable homes sold very recently) as the basis for the adjustment.

Other Matters

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implements section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the General Counsel, Rules Docket Clerk, Room 10276, 451 Seventh Street, S.W., Washington, D.C. 20410.

Executive Order 12291

This rule does not constitute a major rule as that term is defined in section 1(b) of Executive Order 12291 of Federal Regulation issued on February 17, 1981. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act of 1980

Under the provisions of section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601), the undersigned certifies that this rule does not have a significant economic impact on a substantial number of small entities because (1) the overall effect on grantees administering the rule would be a small reduction in the cost of relocation payments along with a reduction in administrative costs and other burdens that would result from the simplification and clarification of certain policies and the elimination of policy differences among the Federal agencies proposing this common rule; and (2) although a small number of displaced businesses (estimated at less than 50) would no longer receive a fixed payment (up to $10,000) in lieu of a payment for their actual moving expenses, there would be minimal effect on the relocation assistance provided to other displaced businesses.

HUD Semiannual Agenda

This rule was listed as sequence number 164 in the Department's Semiannual Agenda of Regulations published on April 29, 1985 (50 FR 17286, 17324) under Executive Order 12291 and the Regulatory Flexibility Act.

Paperwork Reduction Act

The information collection requirements contained in this rule have been submitted to the Office of Management and Budget for review under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520). No person may be subjected to a penalty for failure to comply with these information collection requirements until they have been approved and assigned an OMB control number. The OMB control number, when assigned, will be announced by separate notice in the **Federal Register.**

List of Subjects in

24 CFR Part 42

Administrative practice and procedure; Claims; Community development; Grant programs: housing and community development; Loan programs: housing and community development; Manufactured homes; Real property acquisition; Relocation assistance; Reporting and recordkeeping requirements.

24 CFR Part 43

Loan programs: housing and community development; relocation assistance.

It is proposed that Title 24 of the Code of Federal Regulations be amended as follows:

Samuel R. Pierce, Jr.,

Secretary.

1. Part 42 is revised to read as set forth at the end of this document.

PART 42—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION FOR FEDERAL AND FEDERALLY-ASSISTED PROGRAMS

Subpart A—General

Subpart B—Real Property Acquisition

Subpart C—General Relocation Requirements

Subpart D—Payment for Moving and Related Expenses

Subpart E—Replacement Housing Payments

Subpart F—Mobile (Manufactured) Homes

Subpart G—Last Resort Housing

Authority: Section 213, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601–4655); Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

PART 43—PROVISIONS OF REPLACEMENT HOUSING UNDER THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970

2. The authority citation for Part 43 is revised to read as set forth below and any authority citation following any section in Part 43 is removed.

Authority: Section 206(a) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4626(a)); Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Subpart A—[Removed and Reserved]

3. Part 43 is amended by removing and reserving Subpart A.

DEPARTMENT OF LABOR

29 CFR Part 12

ADDRESS: Comments should be sent to Office of the Assistant Secretary for Administration and Management, Department of Labor, 200 Constitution Avenue, N.W., Washington, DC 20210. The public may inspect the comments on the proposed rule at this address during regular business hours.

FOR FURTHER INFORMATION CONTACT: Joseph McGovern, Office of Space and Telecommunications Management, Room S–1513, Telephone (202) 523–6405. (This is not a toll-free number).

ADDITIONAL SUPPLEMENTARY INFORMATION: Federal agencies are jointly publishing a proposed rule to implement cost-effective policies and procedures governing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq). The proposed rule, as a part of the President's regulatory relief program, is designed to reduce the burden of regulation and paperwork for the Department of Labor's (DOL's) assistance recipients.

When final, this rule will supersede the existing DOL Uniform Act rule at 29 CFR 12.

List of Subjects in 29 CFR Part 12

Acquisition of real property, Relocation assistance.

It is proposed that Title 29 of the Code of Federal Regulations be amended by revising Part 12 as set forth at the end of this document.

Thomas C. Komarek,

Assistant Secretary, Administration and Management.

PART 12—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION FOR FEDERAL AND FEDERALLY ASSISTED PROGRAMS

Subpart A—General

Subpart B—Real Property Acquisition

Authority: Section 213, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, 84 Stat. 1894 (42 U.S.C. 4601).

DEPARTMENT OF DEFENSE

32 CFR Part 259

ADDRESS: Comments should be sent to Mr. Jerome Liess, Department of the Army, Office of the Chief of Engineers, Room 5132, Pulaski Building, 20 Massachusetts Avenue, N.W. Washington, D.C. 20314–1000. A copy of each comment submitted will be available for public inspection and copying during the hours between 9:00 A.M. and 4:00 P.M. at the foregoing address.

FOR FURTHER INFORMATION CONTACT: Mr. Jerome Liess, telephone: (202) 272–0517.

ADDITIONAL SUPPLEMENTARY INFORMATION: This regulation, upon adoption, will replace the existing Department of the Army and Department of the Navy regulations published in 32 CFR Part 641 and 32 CFR Part 742, respectively, with a single regulation for the three military departments of the Department of Defense. The Department of the Air Force has no separate regulation to be replaced since the Department of the Army, as land acquisition agent for the Air Force has applied the same relocation policies and procedures to land acquisition for the Air Force as have been applied to Army land acquisition.

The current regulation of the Department of the Army, contained in 32 CFR Part 641, covers acquisition of both military and civil works lands. It is intended that the new regulation will apply to all land acquisition by the Army in its own behalf and in behalf of clients it serves.

There are a number of differences between the model regulation promulgated by DOT, which forms the basis for the proposed common rule, and the regulations currently in effect. Some of the changes which the Army wishes to highlight are as follows:

Subpart A—General

Section 259.2 Definitions.

(f) *Displaced person.* The proposed regulation provides more detailed guidance for determining which persons qualify and which do not as displaced persons within the meaning of the Uniform Act. The definition of displaced person includes a person who moves from real property as a direct result of acquisition. Under the proposed rule, this now includes any person who moves from real property as a result of initiation of negotiations described in § 259.2(k).

Subpart C—General Relocation Requirements

Section 259.204 Availability of comparable replacement dwelling prior to displacement.

(a) *General.* The proposed regulation provides that no person to be displaced shall be required to move permanently from his or her dwelling unless at least one comparable replacement has been made available. The current Army regulation (§ 641.51, 32 CFR Part 641) provides that replacement housing must be available within a reasonable period of time prior to displacement without specifying any definite number of comparable replacement dwellings to be available to individual displacees.

(b) *Circumstances permitting waiver.* In major disasters or national emergencies, the proposed regulation provides for waiver of the general rule that there must be at least one comparable replacement dwelling available to each displacee. The requirements to be met in providing relocation assistance in emergency moves are set forth in § 259.204(c) of proposed regulation. The emergency procedures are expanded and will be easier to follow than the present regulation.

Section 259.205 Relocation assistance advisory services.

(b) *Services to be provided.* Subparagraph 2(iv) requires that all displaced persons, especially the elderly and handicapped, shall be offered transportation to inspect housing to which they are referred. Existing Army Regulations are not this specific, although this procedure would be followed in cases where it is found necessary.

Subpart D—Payment for Moving and Related Expenses

Section 259.303 Payment for actual reasonable moving and related expenses—Nonresidential moves.

(a) *Eligible costs.* (12) The proposed regulation provides for purchase of substitute personal property where such property is used as part of a business or farm operation and not moved but is promptly replaced with a substitute item that performs a comparable function at the replacement site. The language of the proposed regulation will clarify this point insofar as Army policy is concerned.

(c) Self-moves. The proposed rule permits displaced persons to assume full responsibility for all or a part of the move of a business, farm operation, or nonprofit organization and be paid an

amount not to exceed the lowest acceptable bid or estimate obtained by the agency or prepared by a qualified staff person, without submission of any additional documentation of moving expenses. The Army presently limits the cost of moving to the estimated cost of moving commercially (§ 641.62(b), 32 CFR Part 641). The displaced person is not excused from documenting his expenses under current procedures.

List of subjects in 32 CFR Part 259

Real property acquisition, Relocation requirements, Moving and related expenses, Replacement housing, Mobile home relocation, Last resort housing.

It is proposed that Title 32 of the Code of Federal Regulations be amended by adding Part 259 as set forth at the end of this document.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

May 9, 1985.

PART 259—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION FOR FEDERAL AND FEDERALLY-ASSISTED PROGRAMS

Subpart A—General

Sec.

Subpart B—Real Property Acquisition

Subpart C—General Relocation Requirements

Subpart D—Payments for Moving and Related Expenses

Subpart E—Replacement Housing Payment

Subpart F—Mobile Homes

Subpart G—Last Resort Housing

Authority: Sec. 213, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. 91–646, 84 Stat. 1984 (42 U.S.C. 4601)

DEPARTMENT OF EDUCATION

34 CFR Part 15

ADDRESS: Comments should be sent to Gary Rasmussen, U.S. Department of Education, 400 Maryland Avenue, SW., Room 1175, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Gary Rasmussen. Telephone: (202) 245–0306.

ADDITIONAL SUPPLEMENTARY INFORMATION: These proposed regulations governing Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs replace previous uniform regulations published by the Department of Health, Education, and Welfare on April 2, 1973 (38 FR 8492). The Department of Education adopted and republished these regulations on May 9, 1980 (45 FR 30825) with appropriate conforming technical amendments. The text of the proposed regulations is explained elsewhere in this document.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 15

Government property, Relocation assistance.

It is proposed that Title 34 of the Code of Federal Regulations be amended by revising Part 15 as set forth at the end of this document.

Dated: May 22, 1985.

William J. Bennett,

Secretary of Education.

PART 15—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION FOR FEDERAL AND FEDERALLY ASSISTED PROGRAMS

Subpart A—General

Sec.

Subpart B—Real Property Acquisition

Subpart C—General Relocation Requirements

Authority: Sec. 213, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. 91-646, 84 Stat. 1894 (42 U.S.C. 4601).

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

36 CFR Part 904

ADDRESS: Comments should be sent to: Mr. Jerry M. Smedley, Director of Development Operations, Pennsylvania Avenue Development Corporation, Suite 1220 North, 1331 Pennsylvania Avenue, NW., Washington, D.C. 20004-1703.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry M. Smedley, Director of Development Operations (202 724-9068), or Mr. Reginald H. Robinson, Program Manager (202 724-9068), Pennsylvania Avenue Development Corporation, Suite 1220 North, 1331 Pennsylvania Avenue, N.W., Washington, D.C. 20004-1703.

ADDITIONAL SUPPLEMENTARY INFORMATION: The Proposed regulation creates significant changes in the existing regulation of the Pennsylvania Avenue Development Corporation, as follows:

Subpart A—General

Section 904.2 Definitions.

(h) Farm operation. No farm operations currently exist within the Pennsylvania Avenue development area, as that area is defined in 40 U.S.C. 871(f), however, this definition and the provision in this regulation related to farm operations are included here for uniformity.

Subpart F—Mobile Homes

No mobile homes currently exist within the Pennsylvania Avenue development area, as that area is defined in 40 U.S.C. 871(f), however, this Subpart relating to mobile homes is included here for uniformity.

List of Subjects in 36 CFR Part 904

Relocation assistance and real property acquisition, Reporting and recordkeeping requirements.

It is proposed that Title 36 of the Code of Federal Regulations be amended by adding Part 904 as set forth at the end of this document.

M.J. Brodie,
Executive Director.

PART 904—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION FOR FEDERAL AND FEDERALLY ASSISTED PROGRAMS

Authority: Section 213, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. 91-646, 84 Stat. 1894 (42 U.S.C. 4601).

VETERANS ADMINISTRATION

38 CFR Part 25

ADDRESS: Comments should be sent to: Administrator of Veterans Affairs (271A), 810 Vermont Avenue NW., Washington, DC 20420.

All written comments received will be available for public inspection in the Veterans Services Unit, room 132, at the above address from 8 a.m. to 4:30 p.m.,

Monday through Friday (except holidays) until August 12, 1985.

FOR FURTHER INFORMATION CONTACT: Pam Swiatek, Acting Chief, Real Estate Division, Office of Construction (088C), Veterans Administration, (202) 389-3105.

ADDITIONAL SUPPLEMENTARY INFORMATION: The Veterans Administration, in accordance with the Presidential Memorandum of February 27, 1985, is proposing to remove its regulations implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as contained in 38 CFR Part 25, and to adopt the government-wide regulations as set forth herein. Title 38 CFR will be amended by removing the existing regulations in Part 25, and inserting the government-wide regulations in this part.

List of Subjects in 38 CFR Part 25

Relocation assistance, Veterans Administration.

It is proposed that Title 38 of the Code of Federal Regulations be amended by revising Part 25 to read as set forth at the end of this document.

Approved: May 16, 1985.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 25—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION FOR FEDERAL AND FEDERALLY ASSISTED PROGRAMS

Subpart A—General

Sec.

Subpart B—Real Property Acquisition.

Subpart C—General Relocation Requirements

Subpart D—Payments for Moving and Related Expenses

Subpart E—Replacement Housing Payments

Subpart F—Mobile Homes

Subpart G—Last Resort Housing

Authority: Sec. 213, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. 91-646, 84 Stat. 1894 (42 U.S.C. 4601).

Environmental Protection Agency

40 CFR Part 4

ADDRESS: Comments should be sent to the Central Docket Section (A-130), Attention: Docket No. G-85-01, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. The public may inspect the comments on the proposed rule at this address during regular business hours.

FOR FURTHER INFORMATION CONTACT: Marshall Schy, Grants Administration Division (PM-216), Room 3317M, (202) 382-5298. (This is not a toll-free number.)

ADDITIONAL SUPPLEMENTARY INFORMATION: Federal agencies are jointly publishing a proposed rule to implement cost-effective policies and procedures governing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq). The proposed rule, as a part of the President's regulatory relief program, is designed to reduce the burden of regulation and paperwork for EPA's assistance recipients. This proposed rule replaces the proposed rule which EPA published in the **Federal Register** on May 20, 1982 (47 FR 22010).

When final, this rule will supersede the existing EPA Uniform Act rule at 40 CFR Part 4. In addition to the items discussed above in the common preamble, EPA wishes to bring the following sections to the attention of its readers.

Section 4.103 Criteria for appraisals.

The proposed rule significantly expands the criteria for appraisals of real property under EPA and EPA-assisted programs. Section 4.103(a) defines an appraisal; § 4.103(b) provides minimum standards for the content of appraisals; § 4.103(e) discusses qualifications for appraisers; and § 4.103(f) discusses conflict of interest in appraisals.

Section 4.104 Review of appraisals.

The proposed rule adds a requirement that the acquiring agency have an appraisal review process. The purpose of the review is to assure that all appraisals meet Agency appraisal standards.

Section 4.108 Donations.

The proposed rule permits the full or partial donation of real property to an acquiring agency, as long as the donor is informed of his right to just compensation. Similarly, an owner of real property may waive his right to an appraisal of his property as long as he is informed of that right. This will allow the acquiring agency to avoid the cost of appraisals in situations where the owner believes the benefit he will receive from the project is greater than the value of the interest being acquired, e.g., easements to provide water or sewer lines.

This has been a long-standing problem in EPA's construction grant program under which State agencies may purchase numerous easements, each often of nominal value. In this situation, the cost of obtaining an

appraisal for each acquisition may well exceed the value of the interest being acquired. This not only is costly and unproductive, but, in some cases, may affect the viability of the proposed project.

Section 4.207(e) Multiple occupants of one displacement dwelling.

EPA's previous rule (at § 4.333) provided for separate replacement housing payments for multiple occupants of a single dwelling. The proposed rule provides for a prorated share of all relocation payments in such multiple occupancy situations, except when the displacing agency determines that more than one household had been maintained. When that occurs, each household has a separate entitlement to relocation payments.

Section 4.304(c) Fixed payment for moving expenses—Nonresidential moves [Farm operation].

The proposed rule modifies a portion of EPA's current requirement found at § 4.205–3. That provision, in part, requires that a partial acquisition of a farm operation leave the farm operation with an uneconomic remnant in order for a fixed payment to be payable. The proposed rule only requires that in such cases, the partial acquisition caused a substantial change in the nature of the farm operation.

Section 4.403(a) Determining cost of comparable replacement dwelling.

The current EPA rule at § 4.330 provides three methods of determining the cost of a comparable replacement dwelling, i.e., using dwelling units available on the market, the schedule method, and alternative methods if the market and schedule methods are inappropriate. The proposed rule retains only the market method.

Section 4.336 Certification of eligibility pending purchase of replacement dwelling.

The proposed rule deletes the requirement at § 4.336 that the displacing agency, at the request of a displaced person, provide a certificate concerning eligibility for a replacement housing payment. While this no longer is required, EPA encourages displacing agencies to continue to provide this and similar assistance to displaced persons.

Section 4.502 EPA share of costs.

The proposed rule deletes the provision at § 4.502(a) of EPA's current regulation requiring that payments and other costs under the Uniform Act be shared in the same manner as other project costs. It also deletes the provision at § 4.502(c) that EPA may advance to a State agency the EPA share of the cost of certain Uniform Act payments if it is determined to be necessary for the expenditious completion of a program or a project. These deletions are for regulatory simplification. Since both provisions are statutory (section 211 of the Uniform Act), the requirements are unchanged.

List of Subjects in 40 CFR Part 4

Acquisition of real property, Relocation assistance.

It is proposed that Title 40 of the Code of Federal Regulations be amended by revising Part 4 as set forth at the end of this document.

Lee M. Thomas,

Administrator.

May 21, 1985.

PART 4—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION FOR FEDERAL AND FEDERALLY ASSISTED PROGRAMS

Subpart A—General

Sec.

Subpart B—Real Property Acquisition

Subpart C—General Relocation Requirements

Subpart D—Payments for Moving and Related Expenses

Subpart E—Replacement Housing Payments

Subpart F—Mobile Homes

Subpart G—Last Resort Housing

Authority: Section 213, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. 91–646, 84 Stat. 1894 (42 U.S.C. 4601).

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 101–6, 101–18 and 105–51

ADDRESS: Comments should be submitted to the General Services Administration, Office of Space Management (PR), Washington, DC 20405. Commentors wishing to have their submissions acknowledged should include a stamped, self-addressed postcard with their comments. Comments will be available for review at 18th and F Streets, NW, Washington, DC 20405, from 8:00 A.M. to 4:00 P.M. Monday through Friday in Room 2340.

FOR FURTHER INFORMATION CONTACT: Mr. John H. Quigley, Director, Space Management Division (202–566–1875) or Mr. John P. Spock, Space Management Division (202–523–5549), General

Services Administration, 18th and F Streets, NW, Washington, DC 20405. Office hours Monday through Friday from 8:00 A.M. to 4:30 P.M., ET.

ADDITIONAL SUPPLEMENTARY INFORMATION: The recordkeeping and information collection requirements included in these proposed regulations have been submitted or are simultaneously being submitted for approval to OMB.

To promote the uniform and effective administration of Federal relocation assistance and real property acquisition as provided for in the Uniform Act and the Presidential Memorandum of February 27, 1985, GSA proposes to revoke its existing implementing regulations in 41 CFR 101–18.000 through 101–18.003–19 and 41 CFR 101–18.300 through 101–18.312, and adopt the uniform model regulation published herein and promulgate it at 41 CFR Part 105–51. The model regulation in general provides greater details than exist under GSA's present implementing regulations. The subject coverage is generally the same, however, the model regulation differs as follows:

Section —.3, No duplication of payments, and § —.4, Assurances, monitoring and corrective action, are new.

Section —.101(b) revises GSA's regulations on leasehold acquisition as published in 41 CFR 101–18.312.

Section —.102(g) is a new requirement for updating offers of just compensation.

Section —.103 expands GSA's criteria for appraisals.

Subparts C, D and E, dealing with general relocation requirements, payment for moving and related expenses, and replacement housing payments, respectively, provide expanded details over those contained in GSA's regulations.

Subpart F on mobile homes is new.

Subpart G expands GSA's present coverage of last resort housing.

Appendix A, Section by Section Analysis, is new.

Effect on other Directives. The provisions of 41 CFR indicated above will be superseded by this proposed rule. The Government-wide regulation, issued by GSA to implement the Uniform Act, at 41 CFR 101–6.1 will be cancelled.

List of Subjects in 41 CFR Part 105–51

Real property acquisition; Relocation assistance.

It is proposed that Title 41 of the Code of Federal Regulations be amended as set forth below.

1. Title 41 is amended by adding Part 105–51 to read as set forth at the end of this document.

PART 105–51 UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION FOR FEDERAL AND FEDERALLY ASSISTED PROGRAMS

Subpart 105–51.0—General

Sec.

Subpart 105–51.1—Real Property Acquisition

Subpart 105–51.2—General Relocation Requirements

Subpart 105–51.3—Payments for Moving and Related Expenses

Subpart 105–51.4—Replacement Housing Payments

Subpart 105–51.5—Mobile Homes

Subpart 105–51.6—Last Resort Housing

Authority: Section 213, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. 91–646, 84 Stat. 1894 (42 U.S.C. 4601).

2. Part 105–51 is further amended as follows:

a. Change "Subpart D" to read "Subpart 105–51.3" in the following places:

§ 105–51.501

§ 105–51.502(a)(2)

b. Change "Subpart E" to read "Subpart 105–51.4" in the following places:

§ 105–51.501

§ 105–51.505(a)

§ 105–51.601(a)

c. In Appendix A change the subpart designations to read as set forth in the table of contents for Part 105–51 above.

PART 101–6—MISCELLANEOUS REGULATIONS

Subpart 101–6.1—[Removed and Reserved]

3. Subpart 101–6.1 is removed and reserved.

PART 101–18—ACQUISITION OF REAL PROPERTY

4. The authority citation for Part 101–18 continues to read as follows:

Authority: 63 Stat. 377 (40 U.S.C. 304c, 471, 490, 601–615); 73 Stat. 479; (40 U.S.C. 490 note); (42 U.S.C. 4201–4244); (40 U.S.C. 531–535); E.O. 11512, 35 FR 3979; 84 Stat. 1894, unless otherwise noted.

5. Part 101–18 is amended by removing sections 101–18.003 through 101–18.003–19 and by removing and reserving Subpart 101–18.3 as follows:

§§ 101-18.003 through 101-18.003-19 [Removed]

Subpart 101-18.3—[Removed and Reserved]

Dated: May 21, 1985.

William F. Sullivan,

Commissioner, Public Buildings Service.

DEPARTMENT OF THE INTERIOR

41 CFR Part 114-50

ADDRESS: Comments should be sent to: George Sandberg, Chief, Division of Real Property Management, Office of Acquisition and Property Management, Room 5512, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: George Sandberg, Chief, Division of Real Property Management, Office of Acquisition and Property Management, Room 5512, Department of the Interior, Washington, D.C. 20240, Phone: 202-343-3337.

ADDITIONAL SUPPLEMENTARY INFORMATION: Federal agencies are promulgating jointly a proposed rule to implement cost-effective policies and procedures governing the implementation of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601). The proposed regulation is applicable to both direct Federal programs and projects and to federally-assisted programs and projects undertaken by State and local governments.

When final, this regulation will supersede the existing Department of the Interior regulation governing Uniform Relocation Assistance and Real Property Acquisition found at 41 CFR Part 114-50. The principal changes that will be make in the current regulation are discussed below.

Section 114-50.302 (.2)(a) Definition of Agency.

The term agency has been clarified to mean that an agency within the Department of the Interior means bureau or office including those programs implemented by State or local governmental units with Federal or State financing.

Section 114-50.307 (.7) Federal Agency Waiver of Regulations.

The term agency in this section has also been clarified to mean that for the purposes of this subpart Federal funding agencies include bureaus and offices.

Section 114-50.309 (.9) Recordkeeping and Reports.

The Department of the Interior particularly invites comments on § 114-50.309 (.9)(c) which would decrease the frequency of report by the agencies on their activities under the Uniform Relocation Assistance Act.

The Department of the Interior is codifying the rule in Title 41 of the CFR as a subpart rather than as a part. Therefore, the section numbering will be different from the common rulemaking. The differences are displayed in the table of contents of Subpart 114-50.3 below. Conforming amendments are being made to correct the internal references in light of the differences between the Department of the Interior and the common rulemaking numbering.

List of Subjects in 41 CFR Part 114-50

Uniform relocation assistance, Real property acquisition.

It is proposed that Title 41 of the Code of Federal Regulations be amended as set forth below.

Richard R. Hite,

Principal Deputy Assistant Secretary—Policy, budget and Administration.

1. The authority citation for Part 114-50 continues to read as follows:

Authority: 5 U.S.C. 301, and sec. 213 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 84 Stat. 1894, 1900 (42 U.S.C. 4601, 4633).

2. Part 114-50 is amended by revising Subpart 114-50.3 to read as set forth at the end of this document:

PART 114-50—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES

* * * * *

Subpart 114-50.3—Uniform Relocation and Real Property Acquisition for Federal and Federally Assisted Programs

3. Subpart 114–50.3 is further amended as follows:

a. Change "this part" to read "this subpart" in the following places:

§ 114–50.307
§ 114–50.343(e)

b. Change "this Subpart" to read "§§ 114–50.311 through 114–50.318" in the following places:

§ 114–50.311 (a) and (b)
§ 114–50.315 (b) and (e)

c. Change "this Subpart prescribes" to read "Sections 114–50.321 through 114–50.328 prescribe" in § 114–50.321.

d. Change "This Subpart describes" to read "Sections 114–50.351 through 114–50.355 describe" in § 114–50.351.

e. Change "Subpart D" to read "§ 114–50.331 through 114–50.335" in the following places:

§ 114–50.351
§ 114–50.352(a)(2)

f. Change "Subpart E" to read "§§114–50.341 through 114–50.343" in the following places:

§ 114–50.351
§ 114–50.355(a)
§ 114–50.361(a)

g. Change "this Subpart" to read "§§ 114–50.361 through 114–50.362" in the following places:

§ 114–50.361 (a) and (b)
§ 114–50.362 introductory text and (d)

h. In Appendix A, remove the subpart designations from each of the headings.

i. In Appendix A, under the heading "Real Property Acquisition," change "this Subpart" to read "§§114–50.31 through 114–50.318" in the three places where it occurs.

DEPARTMENT OF JUSTICE

41 CFR Part 128–18

ADDRESS: Comments should be sent to Mr. Philip M. Zeidner, Department of Justice, Director, Facilities and Property Management Staff, Room 6315, Main Justice Building, 10th and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of each comment submitted will be available for public inspection and copying during the hours between 9:00 a.m. and 5:30 p.m. at the foregoing address.

FOR FURTHER INFORMATION CONTACT: Mr. Benjamin F. Burrell, telephone (202) 633–2995.

ADDITIONAL SUPPLEMENTARY INFORMATION: The Department of Justice is codifying the rule in Title 41 of the CFR as a subpart rather than as a part. Therefore, the section numbering will be different from the common rulemaking. The differences are displayed in the Table of Contents of Subpart 128–18.50 below. Conforming amendments are being made to correct the internal references in light of the differences between the Department of Justice numbering and the common rulemaking.

This regulation, upon adoption, will replace the existing Department of Justice regulation published in 41 CFR Part 128–18.

List of subjects in 41 CFR Part 128–18

Real property acquisition, Personal property.

It is proposed that Title 41 of the Code of Federal Regulations, is amended by revising Part 128–18 as set forth at the end of this document.

Dated: May 20, 1985

W. Lawrence Wallace,

Acting Assistant Attorney General for Administration.

1. Part 128–18 is revised as set forth at the end of this document.

PART 128–18—ACQUISITION OF REAL PROPERTY

Subpart 128–18.50—Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs

Sec.
128–18.5001 (Subpart A) General.
128–18.5001–1 (—.1) Purpose.
128–18.5001–2 (—.2) Definitions.
128–18.5001–3 (—.3) No duplication of payments.
128–18.5001–4 (—.4) Assurances, monitoring and corrective action.
128–18.5001–5 (—.5) Manner of notices.
128–18.5001–6 (—.6) Administration of jointly-funded projects.
128–18.5001–7 (—.7) Federal agency waiver of regulations.
128–18.5001–8 (—.8) Compliance with other laws and regulations.
128–18.5001–9 (—.9) Recordkeeping and reports.
128–18.5001–10 (—.10) Appeals.
128–18.5002 (Subpart B) Real Property Acquisition.
128–18.5002–1 (—.101) Applicability of acquisition requirements.
128–18.5002–2 (—.102) Basic acquisition policies.
128–18.5002–3 (—.103) Criteria for appraisals.
128–18.5002–4 (—.104) Review of appraisals.
128–18.5002–5 (—.105) Acquisition of tenant-owned improvements.
128–18.5002–6 (—.106) Expenses incidental to transfer to title to the agency.
128–18.5002–7 (—.107) Certain litigation expenses.
128–18.5002–8 (—.108) Donations.
128–18.5003 (Subpart C) General Relocation Requirements.
128–18.5003–1 (—.201) Purpose.
128–18.5003–2 (—.202) Applicability.
128–18.5003–3 (—.203) Relocation information and written notices.
Sec.
128–18.5003–4 (—.204) Availability of comparable replacement dwelling prior to displacement.
128–18.5003–5 (—.205) Relocation assistance advisory services.
128–18.5003–6 (—.206) Eviction for cause.
128–18.5003–7 (—.207) General requirements—claims for relocation payments.
128–18.5003–8 (—.208) Relocation payments not considered as income.
128–18.5004 (Subpart D) Payments for Moving and Related Expenses.
128–18.5004–1 (—.301) Payments for actual reasonable moving and related expenses—residential moves.
128–18.5004–2 (—.302) Fixed payment for moving expenses—residential moves.
128–18.5004–3 (—.303) Payment for actual reasonable moving and related expenses—nonresidential moves.
128–18.5004–4 (—.304) Fixed payment for moving expenses—nonresidential moves.
128–18.5004–5 (—.305) Ineligible moving and related expenses.
128–18.5005 (Subpart E) Replacement Housing Payments.
128–18.5005–1 (—.401) Replacement housing payments for 180-day homeowner-occupants.
128–18.5005–2 (—.402) Replacement housing payment for 90-day occupants.
128–18.5005–3 (—.403) Additional rules governing replacement housing payments.
128–18.5006 (Subpart F) Mobile Homes.
128–18.5006–1 (—.501) Applicability.
128–18.5006–2 (—.502) Moving and related expenses—mobile homes.
128–18.5006–3 (—.503) Replacement housing payments for 180-day mobile home owner-occupants.
128–18.5006–4 (—.504) Replacement housing payments for 90-day mobile home occupants.
128–18.5006–5 (—.505) Additional rules governing relocation payments to mobile home occupants.
128–18.5007 (Subpart G) Last Resort Housing.
128–18.5007–1 (—.601) Applicability.
128–18.5007–2 (—.602) Methods of providing replacement housing.

Appendix A Section-by-Section Analysis
Appendix B Statistical Report Form

Authority: Sec. 213, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. 91–646, 84 Stat. 1894 (42 U.S.C. 4601)

2. Part 128–18 is further amended as follows:

a. Change "this part" to read "this subpart" in the following places:

§ 128–18.5001–7
§ 128–18.5005–3(e)

b. Change "this subpart" to read "§ 128–18.5002" in the following places:

§ 128–18.5002–1(a) and (b)
§ 128–18.5002–5(b) and (e)

c. Change "This Subpart" to read "Section 128–18.5003" in § 128–18.5003–1.

d. Change "This Subpart" to read "Section 128–18.5006" in § 128–18.5006–1.

e. Change "Subpart D" to read "§ 128–18.5004" in the following places:

§ 128–18.5006–1
§ 128–18.5006–2(a)(2)

f. Change "Subpart E" to read "§ 128–18.5005" in the following places:

§ 128–18.5006–1
§ 128–18.5006–5(a)
§ 128–18.5007–1(a)

g. Change "this subpart" to read "§ 128–18.5007" in the following places:

§ 128–18.5007–1(a) and (b)
§ 128–18.5007–2 introductory text and (d)

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 25

ADDRESS: Comments should be sent to Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: John Scheibel, Federal Emergency Management Agency, 500 C Street, S.W., Washington, DC, (202) 646–4100.

ADDITIONAL SUPPLEMENTARY INFORMATION: Within FEMA, this proposed rule applies primarily to the permanent relocation implemented under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980. (Pub. L. 96–510, Superfund.)

List of Subjects in 44 CFR Part 25

Acquisition of real property, Relocation assistance. Accordingly, it is proposed that Subchapter A of Chapter I, Title 44 of the Code of Federal Regulations be amended by adding Part 25 as set forth at the end of this document.

Dated: May 15, 1985.

Louis O. Giuffrida,
Director, Federal Emergency Management Agency.

PART 25—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION FOR FEDERAL AND FEDERALLY ASSISTED PROGRAMS

Subpart A—General

Sec.
25.1 Purpose.
25.2 Definitions.
25.3 No duplication of payments.
25.4 Assurances, monitoring and corrective action.
25.5 Manner of notices.
25.6 Administration of jointly-funded projects.
25.7 Federal agency waiver of regulations.
25.8 Compliance with other laws and regulations.
25.9 Recordkeeping and reports.
25.10 Appeals.

Subpart B—Real Property Acquisition

25.101 Applicability of acquisition requirements.
25.102 Basic acquisition policies.
25.103 Criteria for appraisals.
25.104 Review of appraisals.
25.105 Acquisition of tenant-owned improvements.
25.106 Expenses incidental to transfer of title to the agency.
25.107 Certain litigation expenses.
25.108 Donations.

Subpart C—General Relocation Requirements

25.201 Purpose.
25.202 Applicability.
25.203 Relocation information and written notices.
25.204 Availability of comparable replacement dwelling prior to displacement.
25.205 Relocation assistance advisory services.
25.206 Eviction for cause.
25.207 General requirements—claims for relocation payments.
25.208 Relocation payments not considered as income.

Subpart D—Payments for Moving and Related Expenses

25.301 Payments for actual reasonable moving and related expenses—residential moves.
25.302 Fixed payment for moving expenses—residential moves.
25.303 Payment for actual reasonable moving and related expenses—nonresidential moves.
25.304 Fixed payment for moving expenses—nonresidential moves.
25.305 Ineligible moving and related expenses.

Subpart E—Replacement Housing Payments

25.401 Replacement housing payments for 180-day homeowner occupants.
25.402 Replacement housing payments for 90-day occupants.
25.403 Additional rules governing replacement housing payments.

Subpart F—Mobile Homes

25.501 Applicability.
25.502 Moving and related expenses—mobile homes.
25.503 Replacement housing payments for 180-day mobile homeowner occupants.
25.504 Replacement housing payments for 90-day mobile home occupants.
25.505 Additional rules governing relocation payments to mobile home occupants.

Subpart G—Last Resort Housing

25.601 Applicability.
25.602 Methods of providing replacement housing.

Appendix A Section-by-section analysis.
Appendix B Statistical report form.

Authority: 42 U.S.C. 4633.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 15

ADDRESS: Address comments in writing to: Office of Procurement, Assistance and Logistics, Department of Health and Human Services, Room 513–D, Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, DC 20201. Comments will be available for public inspection in Room 517–D at the same address, during regular business hours.

FOR FURTHER INFORMATION CONTACT: Gary Houseknecht, Office of Assistance and Cost Policy at the above address, or by calling (202) 245–7565.

ADDITIONAL SUPPLEMENTARY INFORMATION: Federal agencies are jointly publishing a proposed rule to implement cost-effective policies and procedures governing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. Sec. 4601). The proposed rule, as a part of the President's regulatory relief program, is designed to reduce the burden of regulation and paperwork for the Department's assistance recipients.

When final, this rule will supersede the exising Department of Health and Human Services regulation at 45 CFR Part 15. That rule was last revised on April 2, 1973; (38 FR 8492).

List of subjects in 45 CFR Part 15

Acquisition of real property, Relocation assistance.

It is proposed that Title 45 of the Code of Federal Regulations be amended by revising Part 15 as set forth at the end of this document.

Margaret M. Heckler,
Secretary.
May 14, 1985.

PART 15—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION FOR FEDERAL AND FEDERALLY ASSISTED PROGRAMS

Subpart A—General

Sec.
15.1 Purpose.
15.2 Definitions.
15.3 No duplication of payments.
15.4 Assurances, monitoring and corrective action.
15.5 Manner of notices.

Authority: Section 213, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, 84 Stat. 1894 (42 U.S.C. 4601).

PART __—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION FOR FEDERAL AND FEDERALLY ASSISTED PROGRAMS

Subpart A—General

§ —.1 Purpose.

The purpose of these regulations is to promulgate rules to implement the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.), in accordance with the following objectives:

(a) To ensure that owners of real property to be acquired for Federal and federally-assisted projects are treated fairly and consistently, to encourage and expedite acquisition by agreements with such owners, to minimize litigation and relieve congestion in the courts, and to promote public confidence in Federal and federally-assisted land acquisition programs; and

(b) To ensure that persons displaced as a result of Federal or federally-assisted projects are treated fairly, consistently, and equitably so that such persons will not suffer disproportionate injuries as a result of projects designed for the benefit of the public as a whole.

§ —.2 Definitions.

(a) *Agency.* The term "agency" means the Federal agency, State or State agency which acquires the real property or displaces a person (see § —.2(f)).

(b) *Business.* The term "business" means any lawful activity, except a farm operation, that is conducted:

(1) Primarily for the purchase, sale, lease, and/or rental of personal and/or real property, and/or for the manufacture, processing, and/or marketing of products, commodities, and/or any other personal property; or

(2) Primarily for the sale of services to the public; or

(3) Solely for the purpose of § —.303 of these regulations, conducted primarily for outdoor advertising display purposes, when the display(s) must be moved as a result of the project; or

(4) By a nonprofit organization that has established its nonprofit status under applicable Federal or State law.

(c) *Comparable replacement dwelling.* The term comparable replacement dwelling means a dwelling which is:

(1) Decent, safe, and sanitary as described in § —.2(e).

(2) Functionally similar to the displacement dwelling with particular attention to the number of rooms and living space.

(3) In an area that is not subject to unreasonable adverse environmental conditions, is not generally less desirable than the location of the displaced person's dwelling with respect to public utilities and commercial and public facilities, and is reasonably accessible to the person's place of employment.

(4) On a site that is typical in size for residential development with normal site improvements, including customary landscaping. The site need not include special improvements such as outbuildings, swimming pools, and greenhouses. (See also § —.403(a)(2)).

(5) Currently available to the displaced person.

(6) Within the financial means of the displaced person.

(i) A replacement dwelling purchased by a homeowner in occupancy for at least 180 days prior to initiation of negotiations (180-day homeowner) is considered to be within the homeowner's financial means if the homeowner is paid the full price differential as described at § —.401(d), all increased mortgage interest cost as described at § —.401(e), and all incidental expenses as described at § —.401(f).

(ii) A replacement dwelling rented by a displaced person is considered to be within his or her financial means if the monthly rent at the replacement dwelling does not exceed the monthly rent at the displacement dwelling, after taking into account any rental assistance which the person receives under these regulations. If the cost of any utility services is included in either rent, an appropriate adjustment must be made to ensure that like circumstances are compared. For a person who paid little or no rent before displacement, the market rent of the displacement dwelling shall be used when computing costs.

(d) *Contributes materially.* The term "contributes materially" means that during the 2 taxable years prior to the taxable year in which displacement occurs, or during such other period as the Agency determines to be more equitable, a business or farm operation:

(1) Had average annual gross receipts of at least $2,000; or

(2) Had average annual net earnings of at least $1,000; or

(3) Contributed at least 33⅓ percent of the owner's or operator's average annual gross income from all sources.

(4) If the application of the above criteria creates an inequity or hardship in any given case, the acquiring agency may approve the use of other criteria as determined appropriate.

(e) *Decent, safe, and sanitary dwelling.* The term "decent, safe, and sanitary dwelling" means a dwelling which meets applicable housing and occupancy codes. However, if any of the following standards are not met by an applicable code, such following standards shall apply, unless waived for good cause by the Federal agency funding the project. The dwelling shall:

(1) Be structurally sound, weathertight, and in good repair.

(2) Contain a safe electrical wiring system adequate for lighting and other electrical devices.

(3) Contain a heating system capable of sustaining a healthful temperature (of approximately 70 degrees) for a displaced person, except in those areas where local climatic conditions do not require such a system.

(4) Be adequate in size with respect to the number of rooms and area of living space needed to accommodate the displaced person. There shall be a separate, well-lighted and ventilated bathroom that provides privacy to the user and contains a sink, bathtub or shower stall, and a toilet, all in good working order and properly connected to appropriate sources of water and to a sewage drainage system. In the case of a housekeeping dwelling, there shall be a kitchen area that contains a fully usable sink, properly connected to potable hot and cold water and to a sewage drainage system, and adequate space and utility service connections for a stove and refrigerator.

(5) Contains unobstructed egress to safe, open space at ground level. If the replacement dwelling unit is on the second story or above, with access directly from or through a common corridor, the common corridor must have at least two means of egress.

(6) For a handicapped displacee, be free of any barriers which would preclude reasonable ingress, egress, or use of the dwelling by a displaced person who is handicapped.

(f) *Displaced person.*

(1) *General.* The term "displaced person" means any person (defined at § —.2(m)) who moves from the real property or moves his or her personal property from the real property:

(i) As a direct result of the Agency's acquisition of such real property in whole or in part for a project. This includes any person who moved from the real property as a result of the inititation of negotiations as described at § —.2(k). In the case of a partial acquisition, the Agency shall determine whether the person is displaced as a direct result of the partial acquisition; or

(ii) As a result of a written order from the acquiring Agency to vacate such real property for the project; or

(iii) As a result of the Agency's acquisition of, or written order to vacate, other real property for a project on which the person conducts a business, farm operation, or is a nonprofit organization. Eligibility as a displaced person under this subparagraph applies only for purposes of obtaining relocation assistance advisory services under § —.205 and moving expenses under § —.303.

(2) *Persons not displaced.* The following is a nonexclusive listing of persons who do not qualify as a displaced person under these regulations.

(i) A person who moves before the initiation of negotiations; or

(ii) A person who initially enters into occupancy of the property after the date of its acquisition for the project; or

(iii) A person who is not required to relocate permanently as a direct result of a project. Such determination shall be made by the Agency in accordance with any guidelines established by the Federal agency funding the project; or

(iv) A person who, after receiving a notice of relocation eligibility (described at § —.203), is notified in writing that he or she will not be displaced for a project. Such notice shall not be issued unless the person has not moved and the Agency agrees to reimburse the person for any expenses incurred to satisfy any binding contractual relocation obligations entered into after the effective date of the notice of relocation eligibility; or

(v) An owner-occupant who voluntarily sells his or her property (as described at § —.101(a) in Appendix A) after being informed in writing that if a mutually satisfactory agreement of sale cannot be reached, the Agency will not aquire the property. In such cases, however, any resulting displacement of a tenant is subject to these regulations; or

(vi) A person who retains the right of use and occupancy of the real property for life following its acquisition by the Agency; or

(vii) A person who retains the right of use and occupancy of the real property for a fixed term after its acquisition by the Department of Interior under Pub. L. 93–477 or Pub. L. 93–303; or

(viii) A person who is required only to temporarily vacate the premises in order to permit fumigation or other code enforcement work which does not exceed five calendar days.

(g) *Dwelling.* The term "dwelling" means the place of permanent or customary and usual residence of a person, according to local custom or law, including a single family house; a single family unit in a two-family, multi-family, or multi-purpose property; a unit of a condominium or cooperative housing project; a non-housekeeping unit; a mobile home; or any other residential unit.

(h) *Farm operation.* The term "farm operation" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

(i) *Federal agency.* The term "Federal agency" means any Department, Agency, or instrumentality in the Executive Branch of the Government, any wholly owned Government corporation, and the Architect of the Capitol, the Federal Reserve Banks and branches thereof.

(j) *Federal financial assistance.* The term "Federal financial assistance" means any Federal grant, loan, or contribution, except a Federal guarantee or insurance.

(k) *Initiation of negotiations.* The term "initiation of negotiations" means the delivery of the initial written offer by the Agency to the owner or the owner's representative to purchase real property for a project for the amount determined to be just compensation, unless applicable Federal program regulations specify a different action to serve this purpose. In the case of a permanent relocation to protect the public health and welfare, the "initiation of negotiations" means the formal announcement of such relocation or the Federal or federally-coordinated health advisory where the Federal Government later decides to conduct a permanent relocation, provided that such person owns the property on the date the permanent relocation is announced. However, in any case where a person moves after the Agency issues a notice of its intent to acquire the real property, but before delivery of the initial written purchase offer, the "initiation of negotiations" means the date the person moves from the property. (See also § —.505(c)).

(l) *Owner of displacement dwelling.* A displaced person is considered to have met the requirement to own a displacement dwelling if the person holds any of the following interests in real property acquired for a project:

(1) Fee title, a life estate, a 99-year lease, or a lease, including any options for extension, with at least 50 years to run from the date of acquisition; or

(2) An interest in a cooperative housing project which includes the right to occupy a dwelling; or

(3) A contract to purchase any of the interests or estates described in subparagraphs (1) or (2) of this paragraph, or

(4) Any other interest, including a partial interest, which in the judgment of the Agency warrants consideration as ownership.

(m) *Person.* The term "person" means any individual, family, partnership, corporation, or association.

(n) *Salvage value.* The term "salvage value" means the probable sale price of an item, if offered for sale on the condition that it will be removed from the property at the buyer's expense, allowing a reasonable period of time to find a person buying with knowledge of the uses and purposes for which it is adaptable and capable of being used, including separate use of serviceable components and scrap when there is no reasonable prospect of sale except on that basis.

(o) *State.* The term "State" means any of the several States of the United States, the District of Columbia; the Commonwealth of Puerto Rico, any territory or possession of the United States, the Trust Territories of the Pacific Islands, or a political subdivision of any of these jurisdictions.

(p) *State agency.* The term "State agency" means any Department, Agency or instrumentality of a State or of a political subdivision of a State, or two or more States, or of two or more political subdivisions of a State or States.

(q) *Tenant.* The term "tenant" means a person who has the temporary use and occupancy of real property owned by another.

(r) *Uniform Act.* The term "Uniform Act" means the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894; 42 U.S.C. 4601 et seq.; Pub. L. 91–646), and amendments thereto.

§ —.3 No duplication of payments.

No person shall receive any payment under these regulations if that person receives a payment under Federal, State, or local law which is determined to have the same purpose and effect as such payment under these regulations.

§ —.4 Assurances, monitoring and corrective action.

(a) *General.* Before a Federal Agency may approve any grant to, or contract or agreement with, a State agency under which Federal financial assistance will be made available for a project which results in real property acquisition or displacement that is subject to the Uniform Act, the State agency must provide appropriate assurances that it will comply with the Uniform Act and these regulations. If, in the judgment of the Federal agency, Uniform Act compliance will be served, a State agency may provide these assurances at one time to cover all subsequent federally assisted programs or projects. The Federal agency will monitor compliance with these regulations, and the State agency shall take whatever corrective action is necessary to comply with the Uniform Act and these regulations. The Federal agency may also apply sanctions in accordance with applicable program regulations.

(b) *Prevention of fraud, waste, and mismanagement.* The Agency shall take appropriate measures to carry out these regulations in a manner that minimizes fraud, waste, and mismanagement.

§ —.5 Manner of notices.

Each notice which the Agency is required to provide to a property owner or occupant under these regulations, except the notice described at § —.102(b), shall be personally served or sent by certified or registered first-class mail, return receipt requested, and documented in Agency files. Each notice shall be written in plain, understandable language. Persons who are unable to read and understand the notice must be provided with appropriate translation and counseling. Each notice shall indicate the name and telephone number of a person who may be contacted for answers to questions or other needed help.

§ —.6 Administration of jointly funded projects.

Whenever two or more Federal agencies provide financial assistance to an agency or agencies to carry out functionally or geographically related activities which will result in the acquisition of property or the displacement of a person, the Federal

agencies may by agreement designate one such agency as the cognizant Federal agency. At a minimum, the agreement shall set forth the federally assisted activities which are subject to its terms and cite any policies and procedures, in addition to these regulations, that are applicable to the activities under the agreement. Under the agreement, the cognizant Federal agency shall assure that the project is in compliance with the provisions of the Uniform Act and these regulations. All federally assisted activities under the agreement shall be deemed a project for the purposes of these regulations.

§ —.7 Federal agency waiver of regulations.

The Federal agency funding the project may waive any provision in this part that is not required by law when it determines that the waiver does not reduce any assistance or protection available to an owner or displaced person under this part. Any request for a waiver shall be justified on a case-by-case basis.

§ —.8 Compliance with other laws and regulations.

The implementation of these regulations shall be in compliance with the following, including any implementing regulations:

(a) Section I of the Civil Rights Act of 1866 (42 U.S.C. 1982 et seq.).

(b) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

(c) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), as amended.

(d) The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(e) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 790 et seq.).

(f) Executive Order 12250—Leadership and Coordination of Non-Discrimination Laws.

(g) Executive Order 11063 as amended by Executive Order 12259—Equal Opportunity and Housing.

(h) Executive Order 11246—Equal Employment Opportunity.

(i) Executive Order 11625—Minority Business Enterprise.

(j) The Flood Disaster Protection Act of 1973 (Pub. L. 93–234);

(k) Executive Order 11988, Floodplain Management.

(l) The Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.).

§ —.9 Recordkeeping and reports.

(a) *Records.* The Agency shall maintain adequate records of its acquisition and displacement activities in sufficient detail to demonstrate compliance with these regulations. These records shall be retained for at least 3 years after each owner of a property and each person displaced from a property receives the final payment to which he or she is entitled under these regulations.

(b) *Confidentiality of records.* Records maintained by an Agency in accordance with these regulations are confidential regarding their use as public information, unless applicable law provides otherwise.

(c) *Reports.* The Agency shall submit a report of its real property acquisition and displacement activities under these regulations if required by the Federal Agency funding the project. A report will not be required more frequently than every 3 years, or as the Uniform Act provides, unless the Federal funding Agency shows good cause.

§ —.10 Appeals.

(a) *General.* The Agency shall provide an opportunity for the prompt review of appeals in accordance with the requirements of applicable law and these regulations.

(b) *Actions which may be appealed.* A person may file a written appeal with the Agency in any case in which the person believes that the Agency has failed to properly determine the person's eligibility for, or the amount of, a payment required under § —.106 or § —.107, or a relocation payment required under these regulations. The Agency shall consider a written appeal regardless of form.

(c) *Time limit for initiating appeal.* The Agency may set a reasonable time limit for a person to file an appeal. The time limit shall not be less than 60 days after the person receives written notification of the Agency's determination on the person's claim.

(d) *Right to representation.* A person has a right to be represented by legal counsel or other representative in connection with his or her appeal, but solely at the person's own expense.

(e) *Review of files by person making appeal.* The Agency shall permit a person to inspect and copy all materials pertinent to his or her appeal, except materials which are classified as confidential by the Agency. The Agency may, however, impose reasonable conditions on the person's right to inspect, consistent with applicable laws.

(f) *Scope of review of appeal.* In deciding an appeal, the Agency shall consider all pertinent justification and other material submitted by the person, and all other available information that is needed to ensure a fair and full review of the appeal.

(g) *Determination and notification after appeal.* Promptly after receipt of all information submitted by a person in support of an appeal, the Agency shall make a written determination on the appeal, including an explanation of the basis on which the decision was made, and furnish the person a copy. If the full relief requested is not granted, the Agency shall advise the person of his or her right to seek judicial review.

(h) *Agency official to review appeal.* The Agency official conducting the review of the appeal shall be either the head of the Agency or his or her authorized designee. However, the official shall not have been directly involved in the action appealed.

Subpart B—Real Property Acquisition

§ —.101 Applicability of acquisition requirements.

(a) *General.* The requirements of this Subpart apply to any agency acquisition of real property for a Federal or federally assisted project, except for voluntary transactions. (See Appendix A.)

(b) *Less-than-full-fee interest in real property.* The requirements of this Subpart apply to the acquisition of a life estate, or a life use, to acquisition by leasing where the lease term, including option(s) for extension, is 50 years or more, and to the acquisition of permanent easements.

(c) *Federally-assisted projects.* For federally assisted projects the provisions of §§ —.102, —.103, —.104, and —.105 are applicable to the extent practicable under State law. (See § —.4(a).)

§ —.102 Basic acquisition policies.

(a) *Expeditious acquisition.* The Agency shall make every reasonable effort to acquire the real property expeditiously by negotiation.

(b) *Notice to owner.* As soon as feasible, the owner shall be notified of the Agency's interest in acquiring the real property and the basic protections provided to the owner by law and these regulations. (See also information and notice requirements at § —.203.)

(c) *Appraisal and invitation to owner.* Before the initiation of negotiations, the real property shall be appraised and the owner or the owner's designated representative shall be given an opportunity to accompany the appraiser during the appraiser's inspection of the property.

(d) *Establishment and offer of just compensation.* Before the initiation of negotiations, the Agency shall establish an amount which it believes is just compensation for the real property. The amount shall not be less than the

approved appraisal of the fair market value, including damages or benefits to the remaining property. (See also § —.104.) Promptly thereafter the Agency shall make a written offer to the owner to acquire the property for the full amount believed to be just compensation.

(e) *Summary statement.* Along with the initial written purchase offer, the owner shall be given a written statement of the basis for the offer of just compensation, which shall include:

(1) A statement of the amount offered as just compensation. (In the case of a partial acquisition, the compensation for the real property to be acquired and the compensation for damages, if any, to the remaining real property shall be separately stated.)

(2) A description and location identification of the real property and the interest in the real property to be acquired.

(3) An identification of the buildings, structures, and other improvements (including removable building equipment and trade fixtures) which are considered to be part of the real property for which the offer of just compensation is made. (Where appropriate, the statement shall identify any separately held ownership interest in the property, e.g., a tenant-owned improvement, and indicate that such interest is not covered by the offer.)

(f) *Basic negotiation procedures.* The Agency shall make reasonable efforts to contact the owner or the owner's representative and (1) discuss its offer to purchase the property including the basis for the offer of just compensation, and (2) explain its acquisition policies and procedures, including its payment of incidental expenses in accordance with § —.106. The owner shall be given reasonable opportunity to consider the offer and present material which the owner believes is relevant to determining the value of the property and to suggest modification in the proposed terms and conditions of the purchase. The Agency shall consider the owner's presentation.

(g) *Updating offer of just compensation.* If the information presented by the owner, or a material change in the character or condition of the property, indicates the need for new appraisal information, or if a significant delay has occurred since the time of the appraisal(s) of the property, the Agency shall have the appraisal(s) updated or obtain a new appraisal(s). If the latest appraisal information indicates that a change in the purchase offer is warranted, the Agency shall promptly reestablish just compensation and offer the amount to the owner in writing.

(h) *Coercive action.* The Agency shall not advance the time of condemnation, or defer negotiations or condemnation or the deposit of funds with the court, or take any other coercive action in order to induce an agreement on the price to be paid for the property.

(i) *Administrative settlement.* The purchase price for the property may exceed the amount offered as just compensation when reasonable efforts to negotiate on that amount have failed and an authorized agency official approves such administrative settlement as being reasonable, prudent, and in the public interest. When Federal funds pay for or participate in acquisition costs, a written justification shall be prepared which indicates that available information (e.g., appraisals, recent court awards, estimated trial costs, and valuation problems) supports such a settlement.

(j) *Payment before taking possession.* Before requiring the owner to surrender possession of the real property, the Agency shall (1) pay the agreed purchase price to the owner, or (2) in the case of a condemnation, deposit with the court for the benefit of the owner, an amount not less than the Agency's approved appraisal of the fair market value of such property, or the amount of the award of compensation in the condemnation proceeding for the property. In exceptional circumstances, with the prior approval of the owner, the Agency may obtain a right-of-entry before making payment available to an owner.

(k) *Uneconomic remnant.* If the acquisition of only a portion of a property would leave the owner with an uneconomic remnant, the Agency shall offer to acquire the uneconomic remnant along with the portion of the property needed for the project. An uneconomic remnant is a remaining part of the property in which the owner is left with an interest that the Agency determines has little or no utility or value to the owner.

(l) *Inverse condemnation.* If the Agency intends to acquire any interest in real property by exercise of the power of eminent domain, it shall institute formal condemnation proceedings and not intentionally make it necessary for the owner to institute legal proceedings to prove the fact of the taking of the real property.

(m) *Fair rental.* If the Agency permits a former owner or tenant to occupy the real property for a short term or a period subject to termination on short notice, the rent shall not exceed the fair market rent for short term occupancy.

§ —.103 Criteria for appraisals.

(a) *Definition of appraisal.* An appraisal is a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

(b) *Standards of appraisal.* The format and level of documentation for an appraisal are dependent on the complexity of the appraisal problem. The Agency shall develop minimum standards for appraisals consistent with established and commonly accepted appraisal practice for those acquisitions which, by virtue of their low value or simplicity, do not require the in-depth analysis and presentation necessary in a detailed appraisal. A detailed appraisal shall be prepared for all other acquisitions. A detailed appraisal shall reflect nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisition. An appraisal must contain sufficient documentation, including valuation data and the appraiser's analysis of that data, to support his or her opinion of value. At a minimum, the appraisal shall contain the following items:

(1) The purpose and/or the function of the appraisal, a definition of the estate being appraised, and a statement of the assumptions and limiting conditions affecting the appraisal.

(2) An adequate description of the physical characteristics of the property being appraised (and, in the case of a partial acquisition, an adequate description of the remaining property), a statement of the known and observed encumbrances, if any, title information, location, zoning, present use, an analysis of highest and best use, and at least a 5-year sales history of the property.

(3) All relevant and reliable approaches to value consistent with commonly accepted professional appraisal practices. When sufficient market sales data are available to reliably support the fair market value given the specific appraisal problem encountered, the Agency, at its discretion, may require only the market approach. If more than one approach is utilized, there shall be an analysis and reconciliation of value that is sufficient to support the appraiser's opinion(s) of value.

(4) A description of comparable sales, including a description of all relevant physical, legal, and economic factors such as parties to the transaction.

source and method of financing, and verification by a party involved in the transaction.

(5) A statement of the value of the real property to be acquired and, for a partial acquisition, a statement of damages and benefits, if any, to the remaining real property.

(6) The effective date of valuation, date of appraisal, signature, and certification of the appraiser.

(c) *Influence of the project on just compensation.* To the extent permitted by applicable law, the appraiser shall disregard any decrease or increase prior to the date of valuation, in the fair market value of the real property, caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for the project, other than that due to physical deterioration within the reasonable control of the owner.

(d) *Owner retention of improvements.* If the owner of a real property improvement is permitted to retain it for removal from the project site, just compensation for the interest in the real property to be acquired shall be not less than the difference between the amount determined to be just compensation for the owner's entire interest and the salvage value of the retained improvement.

(e) *Qualifications of appraisers.* The Agency shall establish criteria for determining the minimum qualifications of appraisers. Appraiser qualifications shall be consistent with the level of difficulty of the appraisal assignment. The Agency shall review the experience, education, training, and other qualifications of appraisers, including review appraisers, and utilize only those determined to be qualified.

(f) *Conflict of interest.* No appraiser or review appraiser shall have any interest, direct or indirect, in the real property being appraised for the Agency that would in any way conflict with the preparation or review of the appraisal. Compensation for making an appraisal shall not be based on the amount of the valuation. No appraiser shall act as a negotiator for real property which that person has appraised, except that the Agency may permit the same person to both appraise and negotiate an acquisition where the value of the acquisition is $2,500 or less.

§ —.104 Review of appraisals.

The Agency shall have an appraisal review process and, at a minimum:

(a) A qualified reviewing appraiser shall examine all appraisals to assure that they meet Agency appraisal requirements and shall, prior to acceptance, seek correction or revision of those which do not.

(b) If the reviewing appraiser is unable to approve or recommend approval of an appraisal as adequate support for compensation, the reviewing appraiser may develop appraisal documentation in accordance with § —.103 to support an approved or recommended value if it is determined that it is not practical to obtain additional appraisals.

(c) The review appraiser's certification and the recommended or approved value of the property shall be set forth in a signed written statement which identifies the appraisal reports reviewed and explains the basis for such recommendation. Any damages or benefits to any remaining property shall also be identified in the statement.

§ —.105 Acquisition of tenant-owned improvements.

(a) *Acquisition of improvements.* When acquiring any interest in real property, the Agency shall offer to acquire at least an equal interest in all buildings, structures, or other improvements located upon the real property to be acquired, which it requires to be removed or which it determines will be adversely affected by the use to which such real property will be put. This shall include any improvement of a tenant-owner who has the right or obligation to remove the improvement at the expiration of the lease term.

(b) *Improvements considered to be real property.* Any building, structure, or other improvement, which would be considered to be real property if owned by the owner of the real property on which it is located, shall be considered to be real property for purposes of this Subpart.

(c) *Appraisal and establishment of just compensation for tenant-owned improvements.* Just compensation for a tenant-owned improvement is the amount which the improvement contributes to the fair market value of the whole property or its salvage value, whichever is greater. (Salvage value is defined at § —.2(n)).

(d) *Special conditions.* No payment shall be made to a tenant-owner for any real property improvement unless:

(1) The tenant-owner, in consideration for the payment, assigns, transfers, and releases to the Agency all of the tenant-owner's right, title, and interest in the improvement; and

(2) The owner of the real property on which the improvement is located disclaims all interest in the improvement; and

(3) The payment does not result in the duplication of any compensation otherwise authorized by law.

(e) *Alternate payment.* Nothing in this Subpart shall be construed to deprive the tenant-owner of any rights to reject payment under this Subpart and to obtain payment for such property interests in accordance with other applicable law.

§ —.106 Expenses incidental to transfer of title to the Agency.

The owner shall be reimbursed for all reasonable expenses the owner necessarily incurred for:

(a) Recording fees, transfer taxes, documentary stamps, evidence of title, boundary surveys, legal descriptions of the real property, and similar expenses incidental to conveying the real property to the Agency. However, the Agency is not required to pay costs solely required to perfect the owner's title to the real property; and

(b) Penalty costs and other charges for prepayment of any preexisting recorded mortgage entered into in good faith encumbering the real property; and

(c) The pro rata portion of any prepaid real property taxes which are allocable to the period after the Agency obtains title to the property or effective possession of it, whichever is earlier. Whenever feasible, the Agency shall pay these costs directly and avoid the need for an owner to pay any such costs and then seek reimbursement from the Agency.

§ —.107 Certain litigation expenses.

The owner of the real property shall be reimbursed for any reasonable expenses, including reasonable attorney, appraisal, and engineering fees, which the owner actually incurred because of a condemnation proceeding, if:

(a) The final judgment of the court is that the Agency cannot acquire the real property by condemnation; or

(b) The condemnation proceeding is abandoned by the Agency other than under an agreed-upon settlement; or

(c) The court having jurisdiction renders a judgment in favor of the owner in an inverse condemnation proceeding or the Agency effects a settlement of such proceedings.

§ —.108 Donations

Nothing in these regulations shall prevent a person, after being informed of the right to receive just compensation, from making a gift or donation of real property or any part thereof, or any interest therein, or of any compensation paid therefor, to the Agency. The Agency is responsible for assuring that

an appraisal of the real property affected is obtained unless the owner thereof releases the Agency from such obligation.

Subpart C—General Relocation Requirements

§ —.201 Purpose.

This Subpart prescribes general requirements governing the provision of relocation payments and other relocation assistance under the regulations in this Subpart.

§ —.202 Applicability.

These requirements apply to the relocation of any displaced person as defined at § —.2(f).

§ —.203 Relocation information and written notices.

(a) *General information notice.* As soon as feasible, a person scheduled to be displaced should be notified about the possibility of his or her displacement. He or she should also be furnished with a general written description of the Agency's relocation program which does at least the following:

(1) Informs the person that he or she may be displaced for the project and generally describes the relocation payment(s) for which the person may be eligible, the basic conditions of eligibility, and the procedures for obtaining the payment(s).

(2) Indicates that any person displaced will be given reasonable relocation advisory services including housing referrals, help in filing payment claim(s), and other necessary assistance to help the person successfully relocate.

(3) Informs any person to be displaced from a dwelling that he or she cannot be required to move permanently unless at least one comparable replacement dwelling has been made available to the displaced person. No person will be required to move without at least 90 days' advance written notice. (See paragraph (c) of this section.)

(4) Describes the person's right to appeal the Agency's determination as to eligibility for, or the amount of, any relocation payment for which the person is eligible.

(b) *Notice of relocation eligibility.* Eligibility for relocation assistance shall begin on the date of initiation of negotiations for the occupied property. When this occurs, the Agency shall promptly notify all occupants in writing of their eligibility for applicable relocation benefits.

(c) *Ninety-day notice.*

(1) *General.* No lawful occupant shall be required to move unless he or she has received at least 90 days' advance written notice of the earliest date by which he or she may be required to move.

(2) *Timing of notice.* The displacing agency may issue the notice 90 days before it expects the person to be displaced or earlier.

(3) *Content of notice.* The 90-day notice may include a specific date as the earliest date by which the occupant may be required to move, or it may include a statement that the occupant will receive a further notice indicating, at least 30 days in advance, the specific date by which he or she must move. In any case, the notice must state clearly that the occupant will not have to move earlier than 90 days after either the date of the notice or the date comparable replacement housing was made available, whichever is later. (See § —.204(a).)

(4) *Urgent need.* In unusual circumstances, an occupant may be required to vacate the property on less than 90 days' advance written notice if the Agency determines that a 90-day notice is impracticable, such as when the person's continued occupancy of the property would constitute a substantial danger to the person's health or safety. A copy of the Agency's determination shall be included in the applicable case file.

§ —.204 Availability of comparable replacement dwelling prior to displacement.

(a) *General.* No person to be displaced shall be required to move permanently from his or her dwelling unless at least one comparable replacement dwelling (defined at § —.2(c)) has been made available to the person. Where possible, three or more comparable replacement dwellings shall be made available. A comparable replacement dwelling will be considered to have been made available to a person, if:

(1) The person is informed of its location; and

(2) The person has sufficient time to negotiate and enter into a purchase agreement or lease for the property (not less than 90 days); and

(3) The person is assured of receiving the relocation assistance and acquisition compensation, subject to reasonable safeguards, to which the person is entitled in sufficient time to complete the purchase or lease of the property.

(b) *Circumstances permitting waiver.* The Federal agency funding the project may grant a waiver of the policy in paragraph (a) of this section in any case where it is demonstrated that a person must move because of:

(1) A major disaster as defined in section 102(c) of the Disaster Relief Act of 1974 (42 U.S.C. 5121); or

(2) A presidentially declared national emergency; or

(3) Another emergency which requires immediate vacation of the real property, such as when continued occupancy of the displacement dwelling constitutes a substantial danger to the health or safety of the occupants or the public.

(c) *Basic conditions of emergency move.* Whenever a person is required to relocate for a temporary period because of an emergency as described in paragraph (b) of this section, the Agency shall:

(1) Take whatever steps are necessary to assure that the affected person is temporarily relocated to a decent, safe, and sanitary dwelling;

(2) Pay actual reasonable out-of-pocket moving expenses and any reasonable increases in monthly housing costs incurred in connection with the temporary relocation;

(3) Make available to the displaced person as soon as feasible, at least one comparable replacement dwelling. (For purposes of filing a claim and meeting the eligibility requirements for a relocation payment, the date of displacement is the date the person moves from the temporarily occupied dwelling.)

§ —.205 Relocation assistance advisory services.

(a) *General.* The Agency shall carry out a relocation assistance advisory program which satisfies the requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), and Executive Order 11063 (27 FR 11527), and offers the services described in paragraph (b) of this Section. If the Agency determines that a person occupying property adjacent to the real property acquired for the project is caused substantial economic injury because of such acquisition, it may offer the services to such person.

(b) *Services to be provided.* The advisory program shall include such measures, facilities, and services as may be necessary or appropriate in order to:

(1) Personally interview each person to be displaced, determine the person's relocation needs and preferences, and explain the relocation payments and other assistance for which the person may be eligible, the related eligibility requirements, and the procedures for obtaining such assistance.

(2) Provide current and continuing information on the availability, purchase

prices, and rental costs of comparable replacement dwellings, and explain that the person cannot be required to move unless at least one comparable replacement dwelling is made available as set forth in § —.204(a).

(i) The Agency shall inform the displaced person in writing of the specific comparable replacement dwelling and the price or rent used as the basis for establishing the upper limit of the replacement housing payment (see § —.403(a)) and the basis for the determination in order that the displaced person is made aware of the amount of the replacement housing payment to which he or she may be entitled.

(ii) Where feasible, housing shall be inspected prior to being made available to assure that it meets applicable standards. (See § —.2(c) and (e).) If such an inspection is not made, the person to be displaced shall be notified that a replacement housing payment may not be made unless the replacement dwelling is subsequently inspected and determined to be decent, safe, and sanitary.

(iii) Whenever possible, minority persons shall be given reasonable opportunities to relocate to decent, safe, and sanitary replacement dwellings, not located in an area of minority concentration, that are within their financial means. This policy, however, does not require an Agency to provide a person a larger payment than is necessary to enable a person to relocate to a comparable replacement dwelling.

(iv) All displaced persons, especially the elderly and handicapped, shall be offered transportation to inspect housing to which they are referred.

(3) Provide current and continuing information on the availability, purchase prices, and rental costs of comparable and suitable commercial and farm properties and locations. Assist any person displaced from a business or farm operation to obtain and become established in a suitable replacement location.

(4) Minimize hardships to persons in adjusting to relocation by providing counseling, advice as to other sources of assistance that may be available, and such other help as may be appropriate.

(5) Supply persons to be displaced with appropriate information concerning Federal and State housing programs, disaster loan and other programs administered by the Small Business Administration, and other Federal and State programs offering assistance to persons to be displaced.

(c) *Coordination of relocation activities.* Relocation activities shall be coordinated with project work and other displacement causing activities to ensure that, to the extent feasible, persons displaced receive consistent treatment, and the duplication of functions is minimized.

§ —.206 Eviction for cause.

Eviction for cause must conform to applicable State and local law. Any person who has lawfully occupied the real property, but who is later evicted for cause on or after the date of the initiation of negotiations, retains the right to the relocation payments and other assistance set forth in these regulations. However, the date the person moves establishes the date of the person's displacement.

§ —.207 General requirements—claims for relocation payments.

(a) *Documentation.* Any claim for a relocation payment shall be supported by such documentation as may be reasonably required to support expenses incurred, such as, bills, certified prices, appraisals, or other evidence of such expenses. A displaced person must be provided reasonable assistance necessary to complete and file any required claim for payment.

(b) *Expeditious payments.* The Agency shall review claims in an expeditious manner. The claimant shall be promptly notified as to any additional documentation that is required to support the claim. Payment for a claim shall be made as soon as feasible following receipt of sufficient documentation to support the claim.

(c) *Advance payments.* If a person demonstrates the need for an advance relocation payment in order to avoid or reduce a hardship, the Agency shall issue the payment, subject to such safeguards as are appropriate to ensure that the objective of the payment is accomplished.

(d) *Time for filing.* All claims for a relocation payment shall be filed with the Agency within 18 months after the date of displacement or the date of final payment for the displacement dwelling under these regulations, whichever is later. This time period shall be waived by the Agency for good cause.

(e) *Multiple occupants of one displacement dwelling.* If two or more occupants of the displacement dwelling move to separate replacement dwellings, each occupant is entitled to a reasonable prorated share, as determined by the Agency, of any relocation payments that would have been made if the occupants moved together to a comparable replacement dwelling. However, if the Agency determines that two or more occupants maintained separate households within the same dwelling, such occupants have separate entitlements to relocation payments.

(f) *Deductions from relocation payments.* An agency may deduct the amount of any advance relocation payment from the relocation payment(s) to which a displaced person is otherwise entitled. Similarly, when acquiring real property a Federal Agency shall, and a State Agency may, deduct from relocation payments any rent that the displaced person owes to such acquiring agency; provided that no deduction shall be made if it would prevent the displaced person from obtaining comparable replacement housing as required by § —.204 of these regulations. The Agency shall not withhold any part of a relocation payment to a displaced person to satisfy an obligation to any other creditor.

(g) *Notice of denial of claim.* If the Agency disapproves all or part of a payment claimed or refuses to consider the claim on its merits because of untimely filing or other grounds, it shall promptly notify the claimant in writing of its determination, the basis for its determination, and the procedures for appealing that determination.

§ —.208 Relocation payments not considered as income.

No relocation payment received by a displaced person under these regulations shall be considered as income for the purpose of the Internal Revenue Code of 1954, or for the purpose of determining the eligibility or the extent of eligibility of any person for assistance under the Social Security Act or any other Federal law.

Subart D—Payments for Moving and Related Expenses

§ —.301 Payments for actual reasonable moving and related expenses—residential moves.

Any displaced owner-occupant or tenant of a dwelling who qualifies as a displaced person (defined at § —.2(f)) is entitled to reimbursement of his or her actual moving and related expenses as the Agency determines to be reasonable and necessary, including expenses for:

(a) Transportation of the displaced person and personal property. Transportation costs for a distance beyond 50 miles are not eligible, unless the Agency determines that relocation beyond 50 miles is justified.

(b) Packing, crating, unpacking, and uncrating of the personal property.

(c) Disconnecting, dismantling, removing, reassembling, and reinstalling relocated household appliances, and other personal property.

(d) Storage of the personal property not to exceed 12 months, unless the Agency determines that a longer period is necessary.

(e) Insurance for the replacement value of the property in connection with the move and necessary storage.

(f) The replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available.

(g) Other moving related expenses that are not listed as ineligible under § —.305, as the Agency determines to be reasonable and necessary.

§ —.302 Fixed payment for moving expenses—residential moves.

Any person displaced from a dwelling, or a seasonal residence, is entitled to receive a fixed payment in lieu of a payment for actual moving and related expenses covered under § —25.301, that consists of:

(a) A moving expense allowance not to exceed $300 which shall be determined in accordance with the applicable moving allowance schedules approved by the Federal Highway Administration; and

(b) A dislocation allowance of $200.

§ —.303 Payment for actual reasonable moving and related expenses—nonresidential moves.

(a) *Eligible costs.* Any business or farm operation which qualifies as a displaced person (defined at § —.2(f)) is entitled to payment for such actual moving and related expenses as the Agency determines to be reasonable and necessary, including expenses for:

(1) Transportation of personal property. Transportation costs for a distance beyond 50 miles are not eligible, unless the Agency determines that relocation beyond 50 miles is justified.

(2) Packing, crating, unpacking, and uncrating of the personal property.

(3) Disconnecting, dismantling, removing, reassembling, and reinstalling relocated machinery, equipment, and other personal property, and substitute personal property described at § —.303(a)(12). This includes connection to utilities available nearby. It also includes modifications to the personal property necessary to adapt it to the replacement structure, the replacement site, or the utilities at the replacement site, and modifications necessary to adapt the utilities at the replacement site to the personal property. (Expenses for providing utilities from the right-of-way to the building or improvement are excluded.)

(4) Storage of the personal property not to exceed 12 months, unless the Agency determines that a longer period is necessary.

(5) Insurance for the replacement value of the personal property in connection with the move and necessary storage.

(6) Any license, permit, or certification required of the displaced person at the replacement location. However, the payment may be based on the remaining useful life of the existing license, permit, or certification.

(7) The replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available.

(8) Professional services necessary for (i) planning the move of the personal property, (ii) moving the personal property, and (iii) installing the relocated personal property at the replacement location.

(9) Relettering signs and replacing stationery on hand at the time of displacement that is made obsolete as a result of the move.

(10) Actual direct loss of tangible personal property incurred as a result of moving or discontinuing the business or farm operation. The payment shall consist of the lesser of:

(i) The fair market value of the item for continued use at the displacement site, less the proceeds from its sale. (To be eligible for payment, the claimant must make a good faith effort to sell the personal property, unless the Agency determines that such effort is not necessary. When payment for property loss is claimed for goods held for sale, the fair market value shall be based on the cost of the goods to the business, not the potential selling price.); or

(ii) The estimated cost of moving the item, but with no allowance for storage. (If the business or farm operation is discontinued, the estimated cost shall be based on a moving distance of 50 miles.)

(11) The reasonable cost incurred in attempting to sell an item that is not to be relocated.

(12) Purchase of substitute personal property. If an item of personal property which is used as part of a business or farm operation is not moved but is promptly replaced with a substitute item that performs a comparable function at the replacement site, the displaced person is entitled to payment of the lesser of:

(i) The cost of the substitute item, including installation costs at the replacement site, minus any proceeds from the sale or trade-in of the replaced item; or

(ii) The estimated cost of moving and reinstalling the replaced item, based on the lowest acceptable bid or estimate obtained by the Agency for eligible moving and related expenses, but with no allowance for storage.

(13) Searching for a replacement location. A displaced business or farm operation is entitled to reimbursement for actual expenses, not to exceed $1,000, as the Agency determines to be reasonable, which are incurred in searching for a replacement location including:

(i) Transportation.

(ii) Meals and lodging away from home.

(iii) Time spent searching, based on reasonable salary or earnings.

(iv) Fees paid to a real estate agent or broker to locate a replacement site, exclusive of any fees or commissions related to the purchase of such site.

(14) Other moving related expenses that are not listed as ineligible under § —.305, as the Agency determines to be reasonable and necessary.

(b) *Notification and inspection.* The following requirements apply to payments under this section:

(1) The Agency shall inform the displaced person, in writing, of the requirements of paragraphs (b) (2) and (3) of this section as soon as possible after the initiation of negotiations. This information may be included in the relocation information provided to the displaced person as set forth in § —.203.

(2) The displaced person must provide the Agency reasonable advance notice of the approximate date of the start of the move or disposition of the personal property and a list of the items to be moved. However, the Agency may waive this notice requirement after documenting its file accordingly.

(3) The displaced person must permit the Agency to make reasonable and timely inspections of the personal property at both the displacement and replacement sites and to monitor the move.

(c) *Self-moves.* If the displaced person elects to take full responsibility for all or a part of the move of the business, farm operation, or nonprofit organization, the Agency may approve a payment for the person's moving expenses in an amount not to exceed the lowest acceptable bid or estimate obtained by the Agency, or prepared by a qualified staff person, without submission of any additional documentation of moving expenses actually incurred in the move.

(d) *Transfer of ownership.* Upon request and in accordance with applicable law, the claimant shall transfer to the Agency ownership of any personal property that has not been moved, sold, or traded in.

(e) *Advertising signs.* The amount of a payment for direct loss of an advertising sign(s) which is personal property shall be the lesser of:

(1) The depreciated reproduction cost of the sign(s) as determined by the Agency, less the proceeds from its sale; or

(2) The estimated cost of moving the sign(s), but with no allowance for storage.

§ —.304 Fixed payment for moving expenses—Nonresidential moves.

(a) *Business.* Any displaced business (other than an outdoor advertising display business described at § —.2(b)(3) or a nonprofit organization described at § —.304(d)) is eligible for a fixed payment, in lieu of a payment for actual moving and related expenses, in an amount equal to its average annual net earnings as computed in accordance with paragraph (e) of this section, but not less than $2,500 nor more than $10,000, if the Agency determines that:

(1) The business cannot be relocated without a substantial loss of its existing patronage (clientele or net earnings). A business is assumed to meet this test unless the Agency demonstrates that it will not suffer a substantial loss of its existing patronage; and

(2) The business is not part of a commercial enterprise having another establishment, which is not being acquired by the Agency, and which is under the same ownership and engaged in the same or similar business activities. (For purposes of this rule a remaining business facility that did not contribute materially to the income of the displaced person during the 2 taxable years prior to displacement shall not be considered "another establishment."); and

(3) The business contributed materially to the income of the displaced person during the 2 taxable years prior to displacement (see § —.2(d)). However, the Agency may waive this test for good cause.

(b) *Determining the number of businesses.* In determining whether two or more displaced legal entities constitute a single business which is entitled to only one fixed payment, all pertinent factors shall be considered, including the extent to which:

(1) The same premises and equipment are shared;

(2) Substantially identical or interrelated business functions are carried out and business and financial affairs are commingled;

(3) The entities are held out to the public, and to those customarily dealing with them, as one business;

(4) The same person, or closely related persons own, control, or manage the affairs of the entities.

(c) *Farm operation.* Any displaced farm operation, defined at § —.2(h), may choose a fixed payment in lieu of a payment for actual moving and related expenses in an amount equal to its average annual net earnings as computed in accordance with paragraph (e) of this section, but not less than $2,500 nor more than $10,000. In the case of a partial acquisition of land which was a farm operation before the acquisition, the fixed payment shall be made only if the Agency determines that:

(1) The acquisition of part of the land caused the operator to be displaced from the farm operation on the remaining land; or

(2) The partial acquisition caused a substantial change in the nature of the farm operation.

(d) *Nonprofit organizations.* Any displaced nonprofit organization may choose a fixed payment in lieu of a payment for actual moving and related expenses in an amount of $2,500, if the Agency determines that it:

(1) Cannot be relocated without a substantial loss of existing patronage (membership or clientele). A nonprofit organization is assumed to meet this test, unless the Agency demonstrates otherwise; and

(2) Is not part of an enterprise having at least one other establishment engaged in the same or similar activity which is not being acquired by the Agency.

(e) *Average annual net earnings of a business or farm operation.* The average annual net earnings of a business or farm operation are one-half of its net earnings before Federal, State, and local income taxes during the 2 taxable years immediately prior to the taxable year in which it was displaced. If the business or farm was not in operation for the full 2 taxable years prior to displacement, net earnings shall be based on the actual period of operation at the displacement site during the 2 taxable years prior to displacement, projected to an annual rate. Average annual net earnings may be based upon a different period of time when the Agency determines it to be more equitable. Net earnings include any compensation obtained from the business or farm operation by its owner, the owner's spouse, and dependents. The displaced person shall furnish the agency proof of net earnings through income tax returns, certified financial statements, or other reasonable evidence which the Agency determines is satisfactory.

§ —.305 Ineligible moving and related expenses.

A displaced person is not entitled to payment for:

(a) The cost of moving any structure or other real property improvement in which the displaced person reserved ownership. (However, this rule does not preclude the computation under § —.401(d)(4)(iii).); or

(b) Interest on a loan to cover moving expenses; or

(c) Loss of goodwill; or

(d) Loss of profits; or

(e) Loss of trained employees; or

(f) Any additional operating expenses of a business, farm, or nonprofit organization incurred because of operating in a new location; or

(g) Personal injury; or

(h) Any legal fee or other cost for preparing a claim for a relocation payment or for representing the claimant before the Agency; or

(i) Expenses for searching for a replacement dwelling; or

(j) Physical changes to the real property at the replacement location of a business, farm, or nonprofit organization, except as provided in § —.303(a)(3); or

(k) Costs for storage of personal property on real property owned or leased by the displaced person.

Subpart E—Replacement Housing Payments

§ —.401 Replacement housing payments for 180-day homeowner-occupants.

(a) *Eligibility.* A displaced person is eligible for the replacement housing payment for a 180-day homeowner-occupant if the person:

(1) Has actually owned and occupied the displacement dwelling for not less than 180 days immediately prior to the initiation of negotiations; and

(2) Purchases and occupies a decent, safe, and sanitary replacement dwelling within 1 year after the later of:

(i) The date the person receives final payment for the displacement dwelling or, in the case of condemnation, the date the required amount is deposited in the court, or

(ii) The date the person moves from the displacement dwelling.

(b) *Amount of total payment.* The total replacement housing payment for an eligible 180-day homeowner-occupant is an amount, not to exceed $15,000, which is the combined sum of:

(1) The amount by which the cost of a replacement dwelling exceeds the

acquisition cost of the displacement dwelling, as determined in accordance with paragraph (d) of this section; and

(2) The amount necessary to compensate the displaced person for any increased interest costs and other debt service costs to be incurred in connection with the mortgage(s) on the replacement dwelling, as determined in accordance with paragraph (e) of this section; and

(3) The amount of the reasonable expenses that are incidental to the purchase of the replacement dwelling, as determined in accordance with paragraph (f) of this section.

(c) *Rental assistance payment for 180-day owner who rents.* (1) A 180-day owner eligible for a replacement housing payment under § —.401(a) who elects to rent a replacement dwelling is eligible for a payment not to exceed $4,000.

(2) The payment shall be computed and disbursed in accordance with § —.402(b).

(d) *Price differential.*

(1) *Determination of price differential.* The price differential to be paid under paragraph (b)(1) of this section is the amount which must be added to the acquisition cost of the displacement dwelling to provide a total amount equal to the lesser of:

(i) The reasonable cost of a comparable replacement dwelling as determined in accordance with § —.403(a); or

(ii) The purchase price of the decent, safe, and sanitary replacement dwelling actually purchased and occupied by the displaced person.

(2) *Mixed-use and multifamily properties acquired.* If the displacement dwelling was part of a property that contained another dwelling unit and/or space used for non-residential purposes, and/or is located on a lot larger than typical for residential purposes, only that portion of the acquisition payment which is actually attributable to the displacement dwelling shall be considered its acquisition cost when computing the price differential.

(3) *Insurance proceeds.* To the extent necessary to avoid duplicate compensation, the amount of any insurance proceeds received by a person in connection with a loss to the displacement dwelling due to a catastrophic occurrence (e.g. fire, flood, etc.,) shall be included in the acquisition cost of the displacement dwelling when computing the price differential. (Also see § —.3).

(4) *Owner retention of displacement dwelling.* If the owner retains ownership of his or her dwelling, moves it from the displacement site, and reoccupies it on a replacement site (see also § —.103(d) regarding owner retention of improvements), the purchase price of the replacement dwelling shall be considered to be the sum of:

(i) The moving expenses and the cost of restoration to a condition comparable to that prior to the move, including the retention value of the retained dwelling; and

(ii) The costs incurred to make the unit a decent, safe, and sanitary replacement dwelling (defined at § —.2(e)); and

(iii) The cost of the replacement site, unless the claimant did not own the displacement site and there is a reasonable opportunity for the claimant to rent a suitable replacement site. For purposes of replacement housing computation, the "acquisition cost" of the displacement dwelling will be the total amount determined to be just compensation for the real property. The retention cost of the dwelling will not be deducted from the acquisition cost before the replacement housing computation.

(e) *Increased mortgage interest costs.* The amount to be paid under § —.401(b)(2) is the sum of the present value of any increase in interest costs resulting because the interest rate on the mortgage financing on the replacement dwelling exceeds that on the displacement dwelling plus other debt service costs, all computed on the basis of the following rules:

(1) The payment shall only be based on bona fide mortgages that were a valid lien on the displacement dwelling for at least 180 days prior to the initiation of negotiations. All such mortgages on the displacement dwelling shall be used to compute the payment.

(2) The payment shall be based on the unpaid mortgage balance on the displacement dwelling or the new mortgage amount, whichever is less.

(3) The payment shall be based on the remaining term of the mortgage on the displacement dwelling or the actual term of the new mortgage, whichever is shorter.

(4) The interest charge on the new mortgage shall not exceed the prevailing interest rate currently charged by mortgage lending institutions in the area in which the replacement dwelling is located.

(5) The present value of the increased cost shall be computed at the prevailing interest rate paid on savings deposits by commercial banks in the area in which the replacement dwelling is located.

(6) Purchaser's points and origination fees, but not seller's points, shall be paid to the extent (i) they are not paid as incidental expenses, (ii) they do not exceed rates normal to similar real estate transactions in the area, and (iii) the Agency determines them to be necessary. The computation of such points and fees shall be based on the unpaid mortgage balance on the displacement dwelling or the new mortgage amount, whichever is less.

(f) *Incidental expenses.* The incidental expenses to be paid under paragraph (b)(3) of this section or § —.402(c)(1) are those reasonable costs actually incurred by the displaced person incident to the purchase of a replacement dwelling, and customarily paid by the buyer including:

(1) Legal, closing, and related costs, including those for title search and insurance, preparing conveyance instruments, notary fees, preparing surveys and plats, and recording fees.

(2) Lender, FHA, or VA appraisal fees.

(3) FHA or VA application fee.

(4) Certification of structural soundness when required by the lender.

(5) Credit report.

(6) Owner's and mortgagee's evidence or assurance of title.

(7) Escrow agent's fee.

(8) State revenue or documentary stamps, sales or transfer taxes (not to exceed the costs for a comparable replacement dwelling).

(9) Such other costs as the Agency determines to be incidental to the purchase.

§ —.402 Replacement housing payment for 90-day occupants.

(a) *Eligibility.* A tenant or owner-occupant displaced from a dwelling is entitled to a payment not to exceed $4,000 for rental assistance, as computed in accordance with paragraph (b) of this section, or downpayment assistance, as computed in accordance with paragraph (c) of this section, if such displaced person:

(1) Has actually and lawfully occupied the displacement dwelling for at least 90 days immediately prior to the initiation of negotiations; and

(2) Has rented, or purchased, and occupied a decent, safe, and sanitary replacement dwelling within 1 year after:

(i) In the case of a tenant, the date he or she moves from the displacement dwelling, or

(ii) In the case of an owner-occupant, the later of:

(A) The date he or she receives final payment for the displacement dwelling, or in the case of condemnation, the date the required amount is deposited in the court; or

(B) The date he or she moves from the displacement dwelling.

(b) *Rental assistance payment.*

(1) *Amount of payment.* An eligible displaced person who rents a replacement dwelling is entitled to a payment up to, but not to exceed $4,000 for rental assistance. Such payment shall be 48 times the amount obtained by subtracting the average monthly cost for rent of the displacement dwelling for a reasonable period prior to displacement, as determined by the Agency (for an owner-occupant or tenant who pays little or no rent, the average cost for rent shall be the fair market rent), from the lesser of:

(i) The monthly rent for a comparable replacement dwelling; or

(ii) The monthly rent for the decent, safe, and sanitary replacement dwelling actually occupied by the displaced person.

(2) *Utility services.* If utilities are included in the monthly rent of the displacement dwelling, the monthly rent of the comparable replacement dwelling should include utilities; but if it does not, an appropriate amount shall be added. If utilities are not included in the monthly rent of the displacement dwelling, but are included in the monthly rent of the comparable replacement dwelling, an appropriate amount shall be added to the monthly rent of the displacement dwelling in making the calculations. If utilities are not included in the monthly rent of the displacement dwelling or the monthly rent of the comparable replacement dwelling, then the Agency may compute a rental assistance payment without including utilities.

(3) *Manner of disbursement.* The payment under this section shall be disbursed in a lump sum amount, unless the Agency determines on a case-by-case basis, for good cause, that the payment should be made in installments.

(c) *Downpayment assistance payment.*

(1) *Amount of payment.* An eligible displaced person who purchases a replacement dwelling is entitled to a payment for downpayment assistance up to, but not to exceed, $4,000. Such payment shall be the full amount of the first $2,000 of the required downpayment and incidental expenses (see § —.401(f)) plus one-half of any amount required over $2,000, provided that the displaced person matches equally any amount in excess of $2,000. However, the total payment by the Agency shall not exceed $4,000. A displaced person eligible to receive a replacement housing payment for a 180-day homeowner occupant under § —.401 is not eligible for this payment.

(2) *Required downpayment.* For purposes of this section, the term "required downpayment" means the downpayment ordinarily required to obtain conventional loan financing for the decent, safe, and sanitary dwelling actually purchased and occupied. However, if the downpayment actually required of a displaced person for the purchase of the replacement dwelling exceeds the amount ordinarily required, the amount of the "required downpayment" shall be the amount which the Agency determines is necessary for the downpayment.

(3) *Application of payment.* The full amount of the replacement housing payment for downpayment assistance must be applied to the purchase price of the replacement dwelling and related incidental expenses.

§ —.403 Additional rules governing replacement housing payments.

(a) *Determining cost of comparable replacement dwelling.* The upper limit of a replacement housing payment shall be based on the cost of a representative comparable replacement dwelling (defined at § —.2(c)).

(1) If available, at least three representative comparable replacement dwellings shall be examined and the payment computed on the basis of the dwelling most nearly representative of, and equal to, or better than, the displacement dwelling. An adjustment shall be made to the asking price of any dwelling, if such an adjustment is considered justified by the Agency (e.g., local market conditions). An obviously overpriced dwelling may be ignored.

(2) If the site of the comparable replacement dwelling lacks a major exterior attribute of the displacement dwelling site (e.g., the site is significantly smaller or does not contain a swimming pool), the value of such attribute shall be subtracted from the acquisition cost of the displacement dwelling for purposes of computing the payment. If a buildable residential lot or an uneconomic remnant remains after a partial taking and the owner of the remaining property refuses to sell the remainder to the displacing agency, the fair market value of the remainder may be added to the acquisition cost of the displacement dwelling for purposes of computing the payment.

(3) To the extent feasible, comparable replacement dwellings shall be selected from the neighborhood in which the displacement dwelling was located or, if that is not possible, in nearby or similar neighborhoods where housing costs are generally the same or higher.

(b) *Inspection of replacement dwelling.* Before making a replacement housing payment or releasing a payment from escrow, the Agency or its designated representative shall inspect the replacement dwelling and determine whether it is a decent, safe, and sanitary dwelling as defined at § —.2(e).

(c) *Purchase of replacement dwelling.* A displaced person is considered to have met the requirement to purchase a replacement dwelling, if the person:

(1) Purchases a dwelling; or

(2) Purchases and rehabilitates a substandard dwelling; or

(3) Relocates a dwelling which he or she owns or purchases; or

(4) Constructs a dwelling on a site he or she owns or purchases; or

(5) Contracts for the purchase or construction of a dwelling on a site provided by a builder or on a site the person owns or purchases.

(d) *Delay in occupancy after purchase of replacement dwelling.* If the displaced person initially occupies the replacement dwelling after the date by which occupancy is required, but the delay beyond such date is caused by reasons beyond the person's control, as determined by the Agency, the occupancy requirement shall be considered to be satisfied.

(e) *Payment eligibility in special circumstances.* No person shall be denied eligibility for a replacement housing payment solely because he or she is unable to meet the occupancy requirements set forth in the regulations in this Part due to a disaster, an emergency, or an imminent threat to the public health or welfare, as determined by the President or the Federal agency funding the project.

(f) *Conversion of payment.* A displaced person who initially rents a replacement dwelling and receives a rental assistance payment under § —.402(b) is eligible to receive a payment under § —.401 or § —.402(c) if he or she meets the eligibility criteria for such payments, including purchase and occupancy within the prescribed 1-year period. Any portion of the rental assistance payment that has been disbursed shall be deducted from the payment computed under § —.401 or § —.402(c).

(g) *Payment after death.* A replacement housing payment is personal to the displaced person and upon his or her death the undisbursed portion of any such payment shall not be paid to the heirs or assigns, except that:

(1) The amount attributable to the displaced person's period of actual occupancy of the replacement housing shall be paid.

(2) The full payment shall be disbursed in any case in which a member of a displaced family dies and the other family member(s) continue to

occupy the replacement dwelling selected in accordance with these regulations.

(3) Any portion of a replacement housing payment necessary to satisfy the legal obligation of an estate in connection with the selection of a replacement dwelling by or on behalf of a deceased person shall be disbursed to the estate.

Subpart F—Mobile Homes

§ —.501 Applicability.

This Subpart describes the requirements governing the provision of relocation payments for a person displaced from a mobile home or mobile homesite who meets the basic eligibility requirements of these regulations. Except as modified by this Subpart, such a displaced person is entitled to a moving expense payment in accordance with Subpart D and a replacement housing payment in accordance with Subpart E to the same extent and subject to the same requirements as persons displaced from conventional dwellings.

§ —.502 Moving and related expenses—mobile homes.

(a) *General.* A tenant or owner-occupant displaced from a mobile home or mobile homesite is entitled to a payment for the cost of moving his or her personal property on an actual cost basis in accordance with § —.301 or, as an alternative, on the basis of a fixed payment under § —.302 as described in the applicable Agency schedule.

(1) If a displaced mobile homeowner files a claim for actual moving expenses for moving the mobile home to a replacement site, the reasonable cost of disassembling, moving, and reassembling any attached appurtenances (such as porches, decks, skirting, and awnings) which were not acquired, anchoring of the unit, and utility "hook-up" charges are reimbursable.

(2) If the mobile home is not acquired but the owner obtains a replacement housing payment under one of the circumstances described at § —.503(c), the owner is not eligible for payment of moving expenses under Subpart D for moving the mobile home.

(3) If a mobile home requires repairs or modifications to enable it to be moved to a replacement site, and the Agency determines that it is practical to do so, payment shall be limited to the reasonable costs of moving the mobile home and making such repairs or modifications.

(b) *Mobile home park entrance fee.* Nonreturnable entrance fees are reimbursable as part of actual cost moving expenses unless the Agency determines that comparable mobile home parks are available which do not require entrance fees.

§ —.503 Replacement housing payments for 180-day mobile home owner-occupants.

A displaced owner-occupant of a mobile home is entitled to a replacement housing payment not to exceed $15,000 under § —.401 if:

(a) The person both owned the displacement mobile home and occupied it on the displacement site for at least 180 days immediately prior to the initiation of negotiations;

(b) The person meets the other basic eligibility requirements at § —.401(a); and

(c) The Agency acquires the mobile home as real property, or the mobile home is not acquired by the Agency but the owner is displaced because the Agency determines that the mobile home:

(1) Is not decent, safe, and sanitary; or

(2) Cannot be moved without substantial damage or unreasonable cost; or

(3) Cannot be moved because there is no available comparable replacement site; or

(4) Cannot be moved because it does not meet mobile home park entrance requirements.

(When the mobile home is not actually acquired, the acquisition cost of the displacement dwelling used for the purpose of computing the price differential amount, described at § —.401(d), shall include the salvage value or trade-in value of the mobile home, whichever is higher.)

§ —.504 Replacement housing payments for 90-day mobile home occupants.

A displaced tenant or owner-occupant of a mobile home is eligible for a replacement housing payment, not to exceed $4,000, under § —.402 if:

(a) The person actually occupied the displacement mobile home on the displacement site for at least 90 days immediately prior to the initiation of negotiations;

(b) The person meets the other basic eligibility requirements at § —.402(a); and

(c) The Agency acquired the mobile home as real property, or the mobile home is not acquired by the Agency but the owner or tenant is displaced from the mobile home because of one of the circumstances described at § —.503(c).

§ —.505 Additional rules governing relocation payments to mobile home occupants.

(a) *Persons with both an ownership and tenant interest.* A displaced mobile home occupant may have owned the displacement mobile home and rented the site or may have rented the displacement mobile home and owned the site. Also a person may elect to purchase a replacement mobile home and rent a replacement site, or rent a replacement mobile home and purchase a replacement site. In such cases, the total replacement housing payment shall consist of a payment for a dwelling and a payment for a site, each computed under the applicable section in Subpart E. However, the total replacement housing payment to a person shall not exceed the maximum payment (either $15,000 or $4,000) permitted under the section that governs the computation of the dwelling.

(b) *Cost of comparable replacement dwelling.* (1) When computing the amount of a replacement housing payment for a person displaced from a mobile home, the cost of a comparable replacement dwelling is the reasonable cost of a comparable replacement mobile home, including the site. This applies whether the displaced person's actual replacement dwelling is another mobile home or a conventional home.

(2) If a comparable replacement mobile home is not available, the replacement housing payment shall be computed on the basis of the reasonable cost of a comparable conventional dwelling.

(3) If a mobile home requires repairs or modifications to permit its relocation to another site and the Agency determines that it would be practical to move the mobile home and make the repairs or modifications, the cost of a comparable dwelling is the value of the occupants' mobile home plus the cost to make the repairs or modifications.

(c) *Initiation of negotiations.* If a mobile home is not actually acquired, but the occupant is considered displaced under these regulations, the "initiation of negotiations" shall be the date of the initiation of negotiations to acquire the land, or, if the land is not acquired, the date the occupant is notified in writing that he or she is a displaced person for the purposes of these regulations.

(d) *Person moves mobile home.* If the owner is reimbursed for the cost of moving the mobile home under these regulations, he or she is not eligible to receive a replacement housing payment to assist in purchasing or renting a replacement mobile home. The person may, however, be eligible for assistance

in purchasing or renting a replacement site.

(e) *Partial acquisition of mobile home park.* The acquisition of a portion of a mobile home park property may leave a remaining part of the property that is not adequate to continue the operation of the park. If the Agency determines that a mobile home occupant located in the remaining part of the property is required to move, such an occupant shall be considered displaced by the project and entitled to the relocation payments and other assistance in these regulations.

Subpart G—Last Resort Housing

§ —.601 Applicability.

(a) *Basic determination to provide last resort housing.* A person cannot be required to move from his or her dwelling unless at least one comparable replacement dwelling is made available to the person. When a replacement housing payment under Subpart E is not sufficient to provide such housing, additional measures may be needed. An Agency is authorized to take additional measures when it determines that there is a reasonable likelihood that the project will not be able to proceed to completion in a timely manner because no comparable replacement dwelling will be available on a timely basis to a person to be displaced. The Agency's obligation to ensure that a comparable replacement dwelling is available shall be met when such a dwelling, or assistance necessary to provide such a dwelling, is offered under the provisions of this Subpart.

(b) *Basic rights of persons to be displaced.* The provisions of this Subpart do not deprive any displaced person of any rights the person may have under the Uniform Act or any implementing regulations. The Agency shall not require any displaced person, without the person's written consent, to accept a dwelling provided by the Agency under the procedures in this Subpart in lieu of any acquisition payment or any relocation payment for which the person may otherwise be eligible.

§ —.602 Methods of providing replacement housing.

Agencies shall have broad latitude in implementing this Subpart, but implementation shall be on a reasonable cost basis. The methods of providing last resort housing include, but are not limited to:

(a) Rehabilitation of and/or additions to an existing replacement dwelling.

(b) The construction of a new replacement dwelling.

(c) The provision of a direct loan, which requires regular amortization or deferred repayment. The loan may be unsecured or secured by the real property. The loan may bear interest or be interest free.

(d) A replacement housing payment in excess of the limits set forth in § —.401 or § —.402. (A rental assistance subsidy under this Subpart may be provided in installments).

(e) The relocation and, if necessary, rehabilitation of a replacement dwelling.

(f) The purchase of land and/or a replacement dwelling by the displacing agency and subsequent sale or lease to, or exchange with, a displaced person.

(g) The removal of barriers to the handicapped.

Appendix A—Section-by-Section Analysis

This section-by-section analysis describes the provisions of the proposed rule. This material is normally published in the preamble; however, the Agencies believe that it may be useful to displacing agencies and the public to publish this information in an appendix. In this way when the rule becomes final, this information will be available to users of the Code of Federal Regulations as well as to persons who have access to the **Federal Register** print of the regulation.

Subpart A—General

Section —.2(c)(2) Functionally similar.

Section —.2(c)(2) defines comparable replacement housing. One element of this definition requires that comparable replacement housing be functionally similar to the displacement dwelling, with particular attention to the number of rooms and living space. This means that while the replacement dwelling must perform the same functions as the displacement dwelling, it need not be identical. For example, if a displacement dwelling contains a garage which is used as a laundry room, a replacement dwelling with sufficient space (such as a basement) to perform the same function meets the comparability requirement, if otherwise acceptable. Similarly, a replacement dwelling need not duplicate specialized furnishings such as custom kitchen cabinets in order to be comparable.

Moreover, when evaluating comparability an Agency must pay particular attention to the number of rooms and the amount of living space provided by the displacement and replacement dwellings since these are major factors in determining whether the displaced family or individual will be able to maintain the same lifestyle as before displacement.

Section —.9(c) Reports.

This regulation allows Federal agencies to require the submission of a report on activities under the Uniform Act no more frequently than once every three years. The report, if required, will cover activities during the Federal fiscal year immediately prior to the submission date. In order to minimize the administrative burden on agencies implementing this rule, a basic report form (see Attachment, Appendix B) has been developed which, with only minor modifications, would be used in all Federal and federally-assisted programs or projects.

Subpart B—Real Property Acquisition

Section —.101(a) General.

The provisions of this Subpart will apply to real property acquisition for the following types of Federal or federally-assisted programs or projects:

(1) Those carried out under the threat of eminent domain, including amicable agreements under the threat of such power.

(2) Where there is an intended, planned, or designated project area, and all or substantially all of the property within that area is eventually intended to be acquired. Such acquisitions are subject to the requirements of this Subpart whether or not the acquiring agency has or intends to use the power of eminent domain.

Provided it does not conflict with the foregoing, an Agency may determine that the requirements of this Subpart do not apply to an acquisition if all of the following conditions are present:

(1) No specific site or property needs to be acquired, although the Agency may limit its search for alternative sites to a general geographic area.

(2) The property to be acquired must not be a part of an intended, planned, or designated project area where all or substantially all of the property within the area is eventually to be acquired.

(3) The Agency will not acquire the property in the event negotiations fail to result in an amicable agreement, and the owner is so informed. Acquisitions meeting the foregoing criteria are classified as voluntary transactions. The essence of a voluntary transaction is the condition surrounding the transaction, not the type of transaction itself. A voluntary transaction may involve a donation, an exchange, or a market sale, if the transaction is without compulsion on the part of the acquiring agency.

In those situations where an Agency wishes to purchase more than one site within a geographic area on a "voluntary transaction" basis, the Agency intends that all owners be treated similarly with respect to eligibility for benefits under the Uniform Act and these regulations.

Section —.101(b) Less-than-full-fee interest in real property.

The intent of this provision is to provide a clear benchmark beyond which the requirements of the regulation clearly apply to leases. However, the proposed rule also allows displacing agencies the flexibility to apply the regulation to those leasehold acquisitions which are marginally short of 50 years but which in their judgment should be covered.

Section —.101(c) Federally-assisted projects.

A State agency's assurances under section 305 of the Uniform Act (see § —.4(a)) must contain specific reference to the State law which the Agency believes provides an exception to the provisions of sections 301 and 302 of the Act.

Section —.102(d) Establishment of offer of just compensation.

The initial offer to the property owner may not be less than the amount of the Agency's approved appraisal, but may exceed that amount if the Agency determines that a greater amount reflects just compensation for the property.

Section —.102(f) Basic negotiation procedures.

It is intended that an offer to an owner be adequately presented, and that the owner be properly informed. A personal, face-to-face contact is encouraged, but this section is not intended to require such contact in all cases.

Section —.102(g) Updating offer of just compensation.

The objective of this section is to assure that the full amount of just compensation due is offered to a property owner at the time the offer is presented to the owner. Appraisals should be updated as warranted so this objective will be achieved.

Section —.102(i) Administrative settlement.

This section is intended to provide guidance on settlement of a case as an alternative to judicial resolution of a difference of opinion on the value of a property so as to avoid unnecessary litigation and congestion in the courts. All relevant facts and circumstances should be considered by an Agency official delegated this authority. However, appraisers or reviewing appraisers should not be pressured to adjust their estimate of value for the purpose of justifying such settlements. Such action would invalidate the appraisal process.

Section —.102(j) Payment before taking possession.

The right-of-entry process is intended to be used in the exceptional case, such as for emergency projects, where there is no time to make an appraisal and an offer, and the property owner is agreeable to the process.

Section —.103(b) Standards of appraisal.

In paragraph (b)(3) of this section, it is intended that all relevant and reliable approaches to value be utilized. However, where an Agency determines that the market approach will be adequate by itself because of the type of property being appraised and the availability of sales data, it may limit the appraisal assignment to the market approach.

Section —.103(c) Influence of the project on just compensation.

As used in this section, the term "project" is intended to mean an undertaking which is planned, designed, and intended to operate as a unit.

Because of the public knowledge of the proposal, property values may be affected. A property owner should not be penalized because of a decrease in value caused by the proposed project and should not reap a windfall at public expense because of increased value created by the proposed project.

Section —.103(f) Conflict of interest.

The overall objective is to minimize, within reason, the risk of fraud and mismanagement and to promote public confidence in Federal and federally-assisted land acquisition practices. In recognition that the costs may outweigh the benefits in some circumstances, the proposed rule provides that the same person may both appraise and negotiate an acquisition, provided its value is $2,500 or less. However, it should be noted that all appraisals must be reviewed in accordance with § —.104. This includes appraisals made for the type of acquisition discussed here.

Section —.104 Review of appraisals.

This section recognizes that Agencies differ in the authority delegated to the review appraiser. In some cases the reviewer establishes the amount of the offer to the owner and in other cases the reviewer makes a recommendation which is acted on at a higher level. It is also within Agency discretion to decide whether a second review is needed if the first review appraiser establishes a value different from that in the appraisal report or reports on a property.

With respect to the requirement for a signed, written report by the review appraiser in § —.104(c), the proposed rule emphasizes explanation and analysis. Such analysis should be appropriate to the situation. In some cases, a substantial effort is required. At the opposite end of the scale, only a signature may suffice.

Section —.106 Expenses incidental to transfer of title to the agency.

The proposed rule provides that for a property owner to be entitled to reimbursement for incidental title transfer expenses, the expense must be one that the owner must incur; i.e., it is not optional with the owner and/or duplicative of Agency action to obtain surveys, a legal description, etc. Further, the amount itself must be reasonable given the nature of the expense and other relevant circumstances.

Section —.108 Donations.

This section provides that the Agency must obtain an appraisal and offer the full amount of just compensation due unless the owner releases the Agency from these obligations.

Subpart C—General Relocation Requirements

Section —.204 Availability of comparable replacement dwelling prior to displacement.

The requirement that at least one comparable replacement dwelling be made available is considered a minimum requirement and complies with section 205(c)(3) of the Uniform Act. The revised definition of a comparable replacement dwelling found in Subpart A, § —.2(c), is intended to give the acquiring agencies flexibility in locating comparables.

Section —.205(b)(2)(iii).

The objective of this provision is to emphasize that, whenever possible, Relocation Assistance Advisory Services includes assisting minorities to relocate to decent, safe, and sanitary dwellings that are not located in an area of minority concentration.

Section —.205(b)(2)(iv).

The intent of this provision is to ensure that all displaced persons have the opportunity to make inspections.

While many will not ask for assistance of this kind, all should enjoy the same opportunity.

Section —.206 Eviction for cause.

Eligibility for assistance is established on the basis of facts existing as of the date of the initiation negotiations. Once the Agency has determined that a person has satisfied the eligibility requirements of the Uniform Act, there is no basis for changing that determination, assuming all remaining conditions for eligibility are met.

Subpart D—Payments for Moving and Related Expenses

Section —.301 Payment for actual reasonable moving and related expenses—residential moves.

The language of § —.207(a) provides the necessary flexibility to allow an Agency, if it so desires, to adopt a procedure to permit payment of residential moving costs without additional documentation as long as the payment is limited to the amount of the lowest acceptable bid or estimate.

Section —.305 Ineligible moving and related expenses.

The experience of Federal agencies who have allowed physical changes is that the cost is prohibitive. In addition, the Uniform Act treats business moves differently from residential moves. For residential displacements, the Uniform Act provides a specific requirement of comparability in a replacement unit and specific payments designed to assure that comparability is attained. The Act provides neither the requirement nor the payment for businesses. Thus, the proposed rule prohibits payments for physical changes, except as provided in § —.303(a)(3).

Subpart F—Mobile Homes

Section —.502(a)(3) Moving and related expenses—mobile homes.

This paragraph is designed to make it clear that reasonable costs for repairs or modifications to render a mobile home suitable for movement to a replacement site are reimbursable as moving costs.

Section —.502(b) Mobile home park enterance fee.

This paragraph is intended to show that reimbursement for mobile home park entrance fees is allowable only when necessary to effect relocation.

Section —.503(c) Replacement housing payment for 180-day mobile home owner-occupants.

The language is intended to indicate the eligibility of both owners and tenants of mobile homes and the conditions under which a replacement housing payment may be made even though the structure is not acquired.

Section —.504 Replacement housing payments for 90-day mobile home occupants.

The language provides that tenants, as well as owners, of mobile homes may be eligible to receive this payment.

Section —.505 Additional rules governing relocation payments to mobile home occupants.

Paragraph (b)(1) includes consideration of the site in the overall determination of comparability of the replacement mobile home.

Paragraph (b)(3) allows reimbursement of costs to cure existing deficiencies in displaced mobile homes which are not acquired by including them in the calculation of the cost of a comparable replacement dwelling.

Paragraph (e) indicates that determinations regarding displacement attributable to partial acquisition of mobile home parks are to be made by the Agency.

Subpart G—Last Resort Housing

Section —.601(a) Basic determination to provide last resort housing.

No guidelines for implementation are included in the regulation because additional requirements would tend to limit the flexibility considered necessary for equitable application of this subsection.

Section —.601(b) Basic rights of persons to be displaced.

A displaced homeowner's right to purchase a replacement dwelling is stated elsewhere in the regulation and is intended to apply here also.

The use of cost effective means of providing replacement housing is implied throughout the regulation. The term "reasonable cost" is used here to underline the fact that while innovative means to provide housing are allowed, they should be used in a cost-effective manner.

Section —.602(c).

The mortgage financing option is mentioned because it is permitted under section 215 of the Uniform Act and because section 206(a) of the Act authorizes "such action as is necessary or appropriate to provide such housing * * *"

Appendix B—Statistical Report Form

This is the statistical report form (and instructions) which it is expected will be used for any reports which may be required from a Federal, State, or local displacing agency. (See Attachment 1 to Appendix B for form.)

General

1. *Report coverage.* A report may be required to be submitted by all agencies carrying out relocation and/or real property acquisition activities under a Federal or a federally assisted project or program subject to the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. 91-646 (herein called the "Uniform Act").

2. *Report period.* Activities shall be reported on a Federal Fiscal Year basis, i.e., October 1–September 30 for the year in which the report is required under § —.9.

3. *Where and when to submit report.* Submit an original and two copies of this report to *(Name and Address of Federal Agency)* as soon as possible after September 30, but *NOT LATER THAN NOVEMBER 15* of the year in which the report is due.

4. *How to report relocation claims.* A relocation claim shall be reported once the full amount of the claim is approved. If a claim is to be paid in installments or any other type of partial payment is made, only the full amount of the approved claim shall be reported.

5. *How to report dollar amounts.* Round off all money entries in Parts B and C to the nearest dollar.

6. *Statutory references.* Data elements on the report relating to the costs of relocation payments and advisory assistance are identified to indicate the Section of the Uniform Act that authorizes the cost. The references are in parentheses in Part B on the applicable line.

PART A. Persons displaced

Report in Part A the number of persons ("households," "businesses and nonprofit organizations," and "farms") who were permanently displaced during the report year by project or program activities and moved to their replacement dwelling or location. This includes businesses, nonprofit organizations and farms which, upon displacement, discontinued operations. The category "households" includes all families and individuals. A family shall be reported as "one" household, *not* by the number of people in the family unit. Persons shall be reported according to their status as "owners" or "tenants" of the property from which displaced.

PART B. Relocation payments and expenses

Report in Part B the total number of claims, total dollar amounts approved for relocation payments, and total expenses incurred in providing relocation advisory assistance and services during the report year.

Columns (a) and (b). Report in Column (a) the number of claims approved during the report year. Report in Column (b) the total amount represented by the claims reported in Column (a).

Line 10b, Column (b). Report in Column (b) the amount of increased mortgage interest costs that was included in the total amount approved for Replacement Housing Payments for Homeowners on Line 10a, Column (b). Leave Line 10b, Column (a) blank.

Line 13. Report in Column (a) the number of households displaced by project or program activities which were provided assistance in accordance with section 206(a) of the Uniform Act. Report in Column (b) the total financial assistance under section 206(a) allocable to the households reported in Column (a). (If a household received financial assistance under section 203 or section 204 of this regulation as well as under section 206(a) of the Uniform Act, report the household as a claim in Column (a), but in Column (b) report only the amount of financial assistance allocable to section 206(a). For example, if a tenant-household receives a payment of $5,000 to rent a replacement dwelling, the sum of $4,000 shall be included on Line 11, Column (b), and $1,000 shall be included on Line 13, Column (b).)

Line 14. Report on Line 14 all administrative costs incurred during the report year in connection with providing relocation advisory assistance and services under section 205 of the Uniform Act.

PART C.—Real property acquisition subject to Uniform Act

Line 16, Columns (a) and (b). Report in Column (a) all parcels acquired during the report year where title or possession was vested in the acquiring agency during the reporting period. (Include parcels acquired without Federal financial assistance, if there was or will be Federal financial assistance in other phases of the project or program.) Report in Column (b) the total of the amounts paid, deposited in court, or otherwise made available to a property owner pursuant to applicable law in order to vest title or possession in the acquiring agency.

Line 17. Report on Line 17 the number of parcels reported on Line 16 that were acquired by condemnation where price disagreement was involved. Leave Line 17, Column (b), blank.

PART D.—Relocation grievances filed during report year

Line 18. Report on Line 18 the total number of formal relocation grievances filed during the report year by persons displaced that pertain to a payment or to the adequacy of replacement housing in accordance with the applicable Federal agency government-wide regulations governing appeal procedures.

BILLING CODES 3410-98, 6450-01, 7510-01, 3510-FB, 4210-32, 4510-23, 3708-01, 4000-01, 7630-01, 8320-01, 6560-50, 6820-23, 4310-10, 4410-01, 6718-01, 4150-04-M

Model Uniform Act Report

Appendix B

Part A. Persons Displaced by Activities Subject to the Uniform Act During Report Year

	Item	Total (a)	No. of Owners (b)	No. of Tenants (c)
1	Households *(Families and individuals)*			
2	Businesses and Nonprofit Organizations			
3	Farms			

Part B. Relocation Payments and Expenses Under Uniform Act During Report Year

	Item		No. of Claims (a)	Amount (b)
4	Payments for Moving Expenses for Households	Actual Expenses (Section 202(a))		
5		Fixed Payment Including Dislocation Allowance (Section 202(b))		
6	Payments for Moving Expenses for Business and Nonprofit Organizations	Actual Expenses (Section 202(a))		
7		Payment in Lieu of Actual Expenses (Section 202(c))		
8	Payment for Moving Expenses for Farms	Actual Expenses (Section 202(a))		
9		Payment in Lieu of Actual Expenses (Section 202(c))		
10a	Replacement Housing Payments for Homeowners *(Section 203(a))*			
10b	Amount on Line 10a Attributable to Increased Mortgage Interest Costs			
11	Rental Assistance Payment *(Tenants and Certain Others) (Section 204(1))*			
12	Downpayment Assistance *(Tenants and Certain Others) (Section 204(2))*			
13	Housing Assistance as Last Resort *(Section 206(a))*			
14	Relocation Advisory Assistance and Services Cost *(Section 205)*			
15	Total *(Sum of Lines 4 through 14 Excluding Line 10b)*			

Part C. Real Property Acquisition Subject to Uniform Act During Report Year

	Item	No. of Parcels (a)	Compensation (b)
16	Total Parcels Acquired		
17	Total Parcels Acquired by Condemnation Included on Line 16 *(where price disagreement was involved)*		

Part D. Relocation Grievances Filed During Report Year

		Total No.
18	Relocation Grievances Filed in Connection with Project / Program	

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Part VI

Postal Service

39 CFR 777

Proposed Revised Uniform Relocation Assistance and Real Property Acquisition Policies and Procedures; Proposed Rule

POSTAL SERVICE

39 CFR Part 777

Proposed Revised Uniform Relocation Assistance and Real Property Acquisition Policies and Procedures

AGENCY: Postal Service.

ACTION: Proposed Rule.

SUMMARY: To comply on a voluntary basis with the requirements of Title II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 ("the Act"), the Postal Service published in the **Federal Register** on May 5, 1975, regulations to be used by all elements of the Postal Service in providing relocation assistance for persons displaced as a result of Postal Service facility programs (39 CFR Part 777).

These original Posal Service relocation regulations under the Act, like those of other agencies, were written on the assumption that acquisitions normally occur under the exercise or the threat of the exercise of eminent domain. These appear to be the type of acquisitions that prompted enactment of the Act. However, because virtually all postal real property acquisitions do not involve eminent domain takings, the regulations have not proved to be entirely satisfactory. In some instances, they have resulted in unnecessary confusion and windfall payments to participants in voluntary transactions with the Postal Service.

Accordingly, the regulations are proposed for revision.

In the course of revising postal relocation regulations, the Postal Service has been able to participate in and benefit from the on-going development of the government-wide model rule relating to the implementation of the Act. This model rule, published by the Department of Transportation, as a final rule in the March 5, 1985, **Federal Register**, 50 FR 8955, serves as a basis for much of the Postal Service's proposed rulemaking.

However, the Postal Service's rule differs in several important ways (such as the definition of a displaced person, the eligibility of tenants for relocation payments under certain circumstances, and the test for determining whether a replacement dwelling is within a displaced person's financial means) from the common rule being proposed by other Federal agencies elsewhere in the **Federal Register** today. The Postal Service invites comments on these differences with the common rule.

DATE: Comments must be received on or before July 29, 1985.

ADDRESS: Comments should be addressed to: Director, Office of Real Estate, U.S. Postal Service, 475 L'Enfant Plaza, SW., Room 4013, Washington, DC. 20260–6430.

Commenters wishing to have their submissions acknowledged should include a stamped, self-addressed postcard with their comments. Written comments will be available for public inspection and photocopying at the above address from 9:00 a.m. to 3:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Harry Pennington, General Manager, Realty Acquisition Division, (202) 245–5236.

SUPPLEMENTARY INFORMATION: The Act was designed primarily to provide assistance to individuals involuntarily removed from real property. For owners, this implies a taking of the property by or under the threat of eminent domain. The model rule recognizes this primary thrust of the Act by providing that a "person not displaced" is: "An owner occupant who voluntarily sells his or her property * * * after being informed in writing that if a mutually satisfactory agreement of sale cannot be reached, the Agency will not acquire the property."

Since the original passage of the Uniform Act in 1970, the Postal Service has acquired virtually all properties through voluntary sales with no use or threatened use of eminent domain. For most postal projects more than one suitable site is available, and if an agreement cannot be reached with one owner, another site is selected. In only a very few instances has the use of eminent domain been required. For example, it has been used to clear title to a property or to obtain property from elected officials. These are normally friendly condemnation suits to resolve legal technicalities where price is not in contention. Postal projects are generally limited in scope. Their success does not normally require relocations of large numbers of occupants of property in a broad project area.

The proposed regulation provides that voluntary sales to the Postal Service will not trigger eligibility for relocation assistance to the owners of these properties. The regulation provides, however, that assistance may be provided to owners if the Postal Service determines it is necessary to acquire a property through the exercise of, or the threat of the exercise of, eminent domain. Such benefits will not, however, be paid in cases of "friendly" condemnation suits where price is not in dispute.

The Act seems clearly to have had acquisitions of fee interests primarily in view in providing for relocation assistance. Accordingly, the proposed regulations generally do not provide for relocation assistance when the Postal Service succeeds to space of another as a tenant. This is consistent with a ruling by the Comptroller General of the United States (decision B–179973, April 8, 1975) that denied relocation benefits to tenants asked to vacate in accordance with the legal terms governing their tenancies when the space they occupied is to be leased to a government agency through an open market transaction without the use or threat of eminent domain.

Under the proposed regulations, three exceptions are provided to the general rule that benefits are not to be paid in cases of postal leasing. One, naturally, provides benefits to tenants whose leasehold interests are taken by eminent domain, or whose leasehold interests are transferred to the Postal Service under the threat of eminent domain; the second provides that certain residential tenants shall receive benefits; and the third provides benefits for tenants occupying properties on which new buildings are built to be leased to the Postal Service. The latter covers the Postal Service's extensive "lease/construct" program.

With regard to tenants of properties of which the Postal Service becomes the owner, those displaced by Postal Service action to gain space for which the acquisition took place are potentially eligible for assistance as "displaced persons." On the other hand, should the Postal Service permit a tenant to remain on property it acquires, the tenant will not become a "displaced person" even if subsequently asked to vacate, if the Postal Service's need for space expands beyond the original need that caused the acquisition. This is presumed to be the case where a tenant continues in occupancy five or more years after the acquisition. On the other hand, tenants displaced by the non-postal owners of properties are not generally entitled to assistance, provided they depart (or should have departed) from the property prior to the time the purchase contract was signed. Here, too, an exception is provided for certain residential tenants. Such tenants who are on the property when the acquisition takes place are potentially eligible for assistance, even if they were given a lawful notice to quit by the non-postal owner of the property and should have left by the date the contract was signed.

The acquisition procedures in the model rule do not apply to voluntary sales made without the exercise or the threat of the exercise of eminent domain, and the Postal Service adopts the same practice in these regulations. Other postal regulations prescribe procedures for voluntary acquisitions.

Under 39 U.S.C. 410(a), the Postal Service is exempt, with specified exceptions not including the Act, from Federal laws dealing with public property, works, employees, or funds, including provisions of the Administrative Procedure Act regarding proposed rulemaking (5 U.S.C. 533(b), (c)). Nevertheless, the Postal Service invites comments on the following proposed revisions of Title 39, Code of Federal Regulations:

List of Subjects in 39 CFR Part 777

Postal Service, Relocation assistance.

39 CFR Part 777 is revised to read as follows:

PART 777—RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES

Subpart A—General Policy, Purpose and Definitions

Sec.
777.11 General policy.
777.12 Purpose.
777.13 Definitions.
777.14 Certain indirect actions prohibited.

Subpart B—Uniform Relocation Assistance

Sec.
777.21 General procedures.
777.22 Relocation assistance advisory services.
777.23 Moving expenses.
777.24 Replacement housing payments.
777.25 Additional rules for replacement housing payments.
777.26 Mobile homes.
777.27 Last resort housing.
777.28 Claims and appeals.

Subpart C—Acquisition

Sec.
777.31 Acquisition procedures.
777.32 Acquisition of tenant-owned improvements.
777.33 Expenses incidental to transfer of title to the Postal Service.

Subpart D—Voluntary Acquisitions

Sec.
777.41 Acquisition procedures.

Subpart E—Donations

Sec.
777.51 Acceptance of donations.

Authority: 39 U.S.C. 401.

SUBPART A—GENERAL POLICY, PURPOSE AND DEFINITIONS

§ 777.11 General policy.

It is the policy of the Postal Service to comply voluntarily with the provisions of the Uniform Relocation Assitance and Real Property Acquistion Policies Act of 1970 (Pub. L. 91-646; 84 Stat. 1894), hereinafter referred to as the Act.

§ 777.12 Purpose.

The purpose of these regulations is to update policy and procedures for the Postal Service's voluntary compliance with the Act.

§ 777.13 Definitions.

(a) *The Act*—The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. 91-646. The Act consists of three titles: Title I—General Provisions; Title II—Uniform Relocation Assistance; and Title III—Uniform Real Property Acquisition Policy.

(b) *Business*—Any lawful activity, except a farm operation, that is:

(1) Conducted primarily for the purchase, sale, lease and/or rental of personal and/or real property, and for the manufacture, processing, and/or marketing of products, commodities, and/or any other personal property; or

(2) Conducted primarily for the sale of services to the public; or

(3) Solely for the purposes of reimbursing moving and related expenses, conducted primarily for outdoor advertising display purposes, when the display(s) must be moved as a result of the project; or

(4) Conducted by a nonprofit organization that has established its nonprofit status under applicable Federal or State law.

(c) *Comparable replacement dwelling*—A dwelling which is:

(1) Decent, safe, and sanitary.

(2) Functionally similar to the displacement dwelling with particular attention to the number of rooms and living space.

(3) In an area that is not subject to unreasonably adverse environmental conditions, is not generally less desirable than the location of the displacement dwelling with respect to public utilities and commercial and public facilities, and is reasonably accessible to the displaced person's place of employment.

(4) On a site that is typical in size for residential development with normal site improvements including customary landscaping. The site need not include special improvements such as outbuildings, fences, swimming pools, and greenhouses.

(5) Currently available to the displaced person.

(6) Within the financial means of the displaced person.

(d) *Decent, safe, and sanitary dwelling*—A dwelling which meets local housing and occupancy codes and the following standards, unless they are waived for good cause by the Postal Service. The dwelling must:

(1) Be structurally sound, weathertight, and in good repair.

(2) Contain a safe electrical wiring system adequate for lighting and other electrical devices.

(3) Contain a heating system capable of sustaining a healthful temperature of approximately 70 degrees except in those areas where local climatic conditions do not require such a system.

(4) Be adequate in size with respect to the number of rooms and area of living space needed to accommodate the displaced persons. There shall be a separate, well-lighted and ventilated bathroom that provides privacy to the user and contains a bathtub or shower stall, sink, and toilet, all in good working order and properly connected to appropriate sources of water and to a sewage drainage system. In the case of a housekeeping unit—as opposed to, for example, a room in a boarding house—there shall be a kitchen area that contains a fully usable sink, properly connected to potable hot and cold water and to sewage draining system, and adequate space and utility service connections for a stove and a refrigerator.

(5) contain unobstructed egress to safe, open space at ground level.

(6) For displaced persons who are handicapped, be free of any barriers which would preclude their reasonable ingress, egress, or use of the dwelling.

(e) *Displaced person:*

(1) Subject to the additional definitions, limitations and exceptions in paragraph (e)(2) of this section, the term "displaced person" is defined as follows. ("Displaced persons" are entitled to receive benefits only as specifically provided for elsewhere in these regulations.)

(i) A person who owns real property, and who is required to move or to move personal property from the real property following Postal Service action to obtain title to, or a leasehold interest in, such real property by the exercise or the threat of the exercise of eminent domain.

(ii) A person who is a tenant and who is required to move or to move his or her personal property from real property:

(A) Following Postal Service action to obtain the tenant's leasehold interest in

such real property by the exercise or the threat of the exercise of eminent domain, or,

(B) Where the Postal Service acquires a fee interest in the property (including long-term leases of 50 years or more), as a result of a Postal Service notice of displacement or notice to vacate such real property, provided the tenant was lawfully in possession at the time of the postal contract to acquire such property.

(C) Where such real property was used to construct a new building for the express purpose of leasing to the Postal Service under circumstances where such tenant would have been a "displaced person" hereunder had the Postal Service itself acquired the land and required the removal of the tenant to undertake construction of the building for Postal Service ownership.

(iii) Where the Postal Service acquires either a fee interest or a leasehold interest in the property, a person who is a residential tenant and is required to move or to move his or her property from the real property, provided such tenant occupies such real property on the date title in such real property transfers to the Postal Service or the date the Postal Service leases or contracts to lease such property, and further provided such tenant was lawfully in possession at the time of the initiation of negotiations. (The requirement that the tenant occupy such real property on the date title in such real property transfers to the Postal Service or on the date the Postal Service leases or contracts to lease such property may be waived for good cause by the Postal Service.)

(2) The term "displaced person" covers only persons meeting the requirements in paragraph (e)(1) of this section. The term "displaced person" does not cover the following non-exclusive list of examples.

(i) An owner who voluntarily sells his or her real property to the Postal Service, or,

(ii) A tenant who voluntarily transfers his or her leasehold interest to the Postal Service without the exercise or the threat of the exercise of eminent domain, or,

(iii) A tenant who voluntarily moves from real property owned by the Postal Service, or,

(iv) A tenant who is not lawfully in possession at the times specified in paragraphs (e)(1)(ii) (B) and (e)(1)(iii) of this section. A tenant who was legally required by the lease or otherwise to have moved from the property at the times specified in such paragraphs shall not be considered to be lawfully in possession.

(v) A person who, at the determination of the Postal Service, is not required to relocate permanently, or

(vi) A person who, after receiving a notice of displacement or notice to vacate by the Postal Service, is notified in writing that he or she will not be displaced. Such latter notification shall not be issued if the person has already moved. If such latter notification is issued, the Postal Service shall reimburse the person for any reasonable expenses incurred to satisfy any binding contractual relocation obligations entered into after the effective date of the notice of displacement or the notice to vacate or,

(vii) A person who is required to temporarily vacate the premises in order to permit fumigation, repair, painting, or other maintenance or code enforcement work or,

(viii) A tenant who is required to move from real property:

(A) As a result of a notice from the Postal Service to vacate such real property where such notice to vacate is a result of an enlarged Postal Service need for space beyond what existed at the time the Postal Service obtained its interest in such real property, or

(B) As a result of a notice from the Postal Service to vacate such real property where such notice to vacate is issued five years or more after the date of the acquisition of such real property.

(ix) A mobile home occupant who owns the site on which the mobile home is located and who voluntarily sells the site to the Postal Service, regardless of whether such person owns or rents the mobile home.

(f) *Displacement dwelling*—The dwelling acquired by the Postal Service from which a displaced person is required to move.

(g) *Dwelling*—The place of permanent or customary and usual residence of a person including a single family house; a single family unit in a two-family, multi-family, or multi-purpose property; a unit of a condominium or cooperative housing project; a non-housekeeping unit (i.e. room in a boarding house); a mobile home; or any other residential unit.

(h) *Family*—Two or more individuals who are related by blood, adoption, marriage, or legal guardianship who live together as a family unit. If the Postal Service considers that circumstances warrant, others who live together as a family unit may be treated as if they are a family for the purpose of determining assistance under these regulations.

(i) *Farm operation*—Any activity conducted solely or primarily for the production of one or more types of agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

(j) *Financial means*—A comparable replacement dwelling is within the financial means of the displaced family or individual if the average monthly rental or housing cost (e.g., monthly mortgage payments, insurance for the dwelling unit, property taxes, and other reasonable recurring related expenses) which the displaced person will be required to pay does not exceed 25 percent of the monthly gross income of the displaced family or individual or the ratio of the present monthly rental or housing cost to the gross income of the displaced family or individual. (Supplemental payments made by public agencies are to be included in gross income for purposes of these comparisons.)

(k) *Initiation of negotiations*—In the case where eminent domain is neither exercised nor threatened to be exercised, the initiation of negotiations is the initial written communication stating a price by the owner or the owner's representative to the Postal Service, or by the Postal Service to the owner or the owner's representative, regarding a proposed acqusition (by purchase or lease) of an interest in a specific piece of real property. In the case where eminent domain is either exercised or threatened to be exercised, the initiation of negotiations is the date the Postal Service makes a written offer of just compensation.

(l) *Notice of displacement*—A notice given in writing by the Postal Service to a person that he or she will be displaced from his or her place of residence, business or farm, as a result of a facility action by the Postal Service. A notice of displacement may be combined with or in a notice to vacate.

(m) *Notice to vacate*—A notice given in writing by the Postal Service to a person that he or she is to vacate postal owned property on or before a certain date. A notice to vacate may be combined with or in a notice of displacement.

(n) *Owner of displacement dwelling*—A person is considered to be an owner if, at the initiation of negotiations, the person holds any of the following interests in real property acquired for a postal project:

(1) Fee title, a life estate, a 99-year lease, or a lease, including any options for extension, with at least 50 years to run from the date of acquisition; or

(2) An interest other than leasehold interest in a cooperative housing project

which includes the right to occupy a dwelling; or

(3) A contract to purchase any of the interests or estates described in paragraph (n)(1) or (n)(2) of this section; or

(4) Any other interest, including a partial interest, which in the judgment of the Postal Service, warrants consideration as ownership.

(o) *Person*—Any individual, family, partnership, corporation, association, business or farm operation.

(p) *Personal property*—Any tangible property, not considered part of the real property, for which payment has not been included in the acquisition cost.

(q) *Tenant*—A person who has the legal right to temporary use and occupancy of real property owned by another. In some cases, these regulations also use the term "tenant" to refer to a person who occupies real property owned by another but whose legal right was terminated due to a timely notice to vacate the real property used and occupied.

§ 777.14 Certain indirect actions prohibited.

Postal employees shall take no indirect actions to cause persons to move from real property in an effort to avoid the circumstances under which such persons would be eligible to receive relocation benefits as displaced persons under these regulations. If a claimant demonstrates that such prohibited action caused him or her to move, he or she will be treated as a displaced person hereunder, if he or she otherwise meets the definition of a displaced person.

Subpart B—Uniform Relocation Assistance

§ 777.21 General procedures.

(a) *Planning prior to site selection*—When acquisition of a site under consideration would likely involve displacement of a person eligible under § 777.13 for relocation assistance, the Postal Service representative shall prepare a relocation needs and availability analysis. The Postal Service representative shall include in the analysis a complete inventory of persons who may be displaced and specifically identify their needs.

(b) *Planning subsequent to site selection*—Subsequent to site selection, the Postal Service must review the relocation needs and availability analysis and establish a specific plan for providing the assistance covered by these regulations to any eligible displaced persons. It will further determine the necessity of establishing an on-site relocation office which would be accessible to displaced persons and would be staffed with relocation personnel qualified to render all relocation services. The Postal Service will assure that cost estimates reflect current market conditions and that funding is available for all relocation assistance and activities.

(c) *Contracting for relocation services*—When the Postal Service determines it to be advantageous, it may enter into a relocation assistance service contract with a public agency or private firm having expertise in relocation assistance. The contract must require the contractor to follow Postal Service relocation assistance regulations.

(d) *Notice to vacate, ninety day requirement*—Postal Service notices to vacate must be issued at least 90 days prior to the date the property must be vacated. Any such notice must be in writing and delivered in person with receipt acknowledged, or by certified mail, return receipt requested. The 90 day requirement does not apply to any such notice issued subsequent to a valid notice to vacate issued by the prior owner of the property. A 90-day notice may be given with, or such notice may be combined with, but such notice must not be given before, the notice of displacement referred to in paragraph (f) of this section.

(e) *Shorter notice period, unusual circumstances*—An occupant may be required to vacate the property on less than 90 days advance written notice if the Postal Service determines that a 90-day notice is impracticable. An example of such a situation is when the person's continued occupancy of the property would constitute a substantial danger to the person's health or safety.

(f) *Notice of displacement*—Normally, a notice of displacement will be given at the time of acquisition or later. Such notice must not be given earlier than the time of contracting, except in the case of acquisitions by eminent domain or by the threat of eminent domain. Such notice may be given at the time of contracting or between the time of contracting and the time of acquisition if the Postal Service considers it wise to start the displacement process then and if, in the judgment of the Postal Service, it is clear that person will in fact be a displaced person.

(g) *Notice of availability of advisory services*—The notice of displacement will state that relocation assistance advisory services will be available to the displaced person and will designate who will provide such services.

§ 777.22 Relocation assistance advisory services.

(a) *General*—The Postal Service carries out an advisory assistance program for displaced persons.

(b) *Relocation information*—The Postal Service must contact each displaced person to provide an informational statement outlining the assistance available to the particular person. If it is impracticable to contact the displaced persons personally, the informational statement must be mailed to the persons, certified mail, return receipt requested.

(c) *Time of initial contact to provide relocation information*—The initial contact to provide relocation information must take place by the following dates:

(1) Where acquisition of the property is to occur as a result of the exercise or the threat of the exercise of eminent domain, at the time of initiation of negotiations or within 30 days thereafter.

(2) In any other instance, no later than 30 days after the notice of displacement or the notice to vacate. Such contact may be made prior to acquisition and prior to the notice of displacement or the notice of vacate, but it must normally not be made prior to contracting for the acquisition.

(d) *Services to be provided*—The advisory program shall include such services as may be necessary or appropriate to:

(1) Provide current information on the availability, purchase prices, financing, and rental costs of replacement dwellings.

(2) For displaced persons eligible for replacement housing payments, explain that the displaced person cannot be required to move unless at least one comparable replacement dwelling is made available.

(i) At the request of displaced person, the Postal Service must inform that person, in writing, of the specific comparable replacement dwelling used as the basis for the replacement housing payment offer, the price or rent used to establish the upper limit of that offer, the basis for the determination, and the amount of the replacement housing payment to which he or she may be entitled.

(ii) Where feasible, housing must be inspected by the Postal Service representative prior to its being made available to assure that it is a comparable replacement dwelling and meets the decent, safe, and sanitary standard. The displaced person must be notified that a replacement housing payment will not be made unless the

replacement dwelling is inspected and determined to be decent, safe, and sanitary.

(iii) Whenever possible, minority displaced persons must be given reasonable opportunities to relocate to comparable dwellings, not located in an area of minority concentration, that are within their financial means. This policy, however, does not require the Postal Service to provide a person a larger payment than is necessary to enable that person to relocate to a comparable replacement dwelling.

(iv) All displaced persons, especially the elderly and handicapped, must be offered transportation to inspect housing to which they are referred.

(3) Provide current and continuing information on the availability, purchase prices, and rental costs of comparable and suitable commercial and farm properties and locations, and assist any person displaced from a business or farm operation to obtain and become established in a suitable replacement location.

(4) Minimize hardships to displaced persons in adjusting to relocation by providing counseling, advice about other sources of assistance that may be available, and such other help as may be appropriate.

(5) Supply displaced persons with appropriate information concerning Federal, State, and local housing programs, disaster loan and other programs administered by the Small Business Administration, and other Federal, State, and local programs offering assistance to displaced persons.

(6) Upon selection of a replacement property by a displaced person, the Postal Service may arrange for a representative to assist the displaced person with necessary arrangements for the move.

§ 777.23 Moving expenses.

(a) *Eligibility.*

(1) Residential displaced persons are entitled to benefits under paragraphs (b) and (c) of this section.

(2) Business and farm displaced persons are entitled to benefits under paragraphs (d) through (k) of this section.

(3) Those business or farm displaced persons who reside on the property where the business or farm operation is conducted are eligible for applicable benefits both as residents and as business or farm displaced persons, but no duplicate payments are allowed.

(4) Persons who are required to move or to move personal property from real property, an interest in which is not acquired by the Postal Service, when it is determined by the Postal Service that such move is necessary or reasonable because of the Postal Service's having acquired an interest in other real property owned or leased by such persons and on which such persons conduct a business or farm operation, under circumstances where such persons are displaced persons with regard to such other real property or would have been displaced persons with regard to such other real property had they been required to move or to move personal property from such other real property, are entitled to benefits as residential, business or farm displaced persons under paragraphs (a) (1) or (2) of this section.

(5) Eligibility for moving expenses does not depend upon the owner's or tenant's actual occupancy of the displacement real property.

(b) *Allowable expenses, residential moves*—Allowable moving expenses include:

(1) Transportation of the displaced person and his or her personal property. Transportation costs are limited to the costs of a move up to a distance of 50 miles unless the Postal Service determines the relocation beyond 50 miles is justified.

(2) Packing, crating, unpacking, and uncrating of the personal property.

(3) Disconnecting, dismantling, removing, reassembling, and reinstalling relocated household appliances and other personal property.

(4) Storage of the personal property not to exceed 12 months unless the Postal Service determines that a longer period is necessary.

(5) Reasonable costs for insurance for the replacement value of the personal property being moved or stored.

(6) The replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee), but only where insurance covering such loss, theft, or damage is not reasonably available.

(7) Other moving related expenses that are not listed as non-allowable under paragraph (l)(3) of this section and which the Postal Service determines to be reasonable and necessary.

(c) *Fixed payment for moving expenses, residential moves*—Any residential displaced person may choose to receive a fixed payment in lieu of a payment for actual moving and related expenses. This fixed payment will consist of:

(1) A moving expense allowance, not to exceed $300, which must be determined in accordance with the applicable moving allowance schedules approved by the Federal Highway Administration; and

(2) A dislocation allowance of $200.

(d) *Allowable expenses, business and farm operations*—Allowable expenses include:

(1) The expenses allowed under paragraphs (b) (2), (4), (5) and (6) of this section;

(2) Transportation of personal property. Transportation costs are limited to a distance up to 50 miles unless the Postal Service makes a finding that relocation beyond 50 miles is justified.

(3) Disconnecting, dismantling, removing, reassembling, and reinstalling relocated machinery, equipment, and other personal property, and substitute personal property as described in paragraph (d)(8) of this section. This includes connection to utilities available at the replacement site or building and minor modifications to personal property to adapt it to the replacement site or building. Excluded are expenses for providing utilities to or installing utilities at the replacement site or building and expenses for repair, alteration, improvement or modification of the replacement site or building. This exclusion includes, but is not limited to, any repairs, alterations, improvements, or modifications required by local code to bring the building up to standard.

(4) Any license, permit, or certification fee required of the displaced person by a governmental authority at the replacement location. However, this payment is limited to the pro rata value for the remaining useful life of any existing license, permit, or certificate.

(5) Reasonable professional services necessary for planning the move of the personal property. Such professional services must be approved in advance by the Postal Service and shall not exceed the lowest of three acceptable bids.

(6) Relettering signs and replacing stationary, business cards, rubber stamps, etc., on hand at the time of displacement, that are made obsolete as a result of the move. This does not include new signs, and other items replaced will only be reimbursed in the numbers that were on hand when they became obsolete.

(7) Actual direct loss of tangible personal property incurred as a result of moving or discontinuing the business or farm operation. The payment will consist of the reasonable costs incurred in attempting to sell the item plus the lesser of:

(i) The fair market value of the item for continued use at the displacement site, less the proceeds from its sale. (To

be eligible for this payment the claimant must make a good faith effort to sell the personal property, unless the Postal Service determines that such effort is not necessary. When payment for property loss is claimed for goods held for sale, the fair market value must be based on the cost of the goods to the business, not the potential selling price.); or

(ii) The estimated cost of moving the item no more than 50 miles, but with no allowance for storage.

(8) If an item of personal property which is used as part of a business or farm operation is not moved, is promptly replaced with a substitute item that performs a comparable function at the replacement site, the displaced person is entitled to payment of the lesser of:

(i) The cost of the substitute item, including installation costs at the replacement site, less any proceeds from the sale. (To be eligible for payments under this paragraph (d)(8) of this section, the claimant must make a good faith effort to sell the personal property, unless the Postal Service determines that such effort is not necessary.)

(ii) The estimated cost of moving and reinstalling the replaced item, based on the lowest acceptable bid or estimate obtained by the Postal Service for eligible moving and related expenses, but with not allowance for storage.

(9) A displaced business or farm operation is entitled to reimbursement for actual expenses, not to exceed $1,000, which the Postal Service determines to be reasonable and which are incurred in searching for a replacement location. These expenses include transportation, meals and lodging away from home, time spent searching (based on reasonable salary or earnings) and fees paid to a real estate agent or broker to locate a replacement site, exclusive of any fees or commissions related to the purchase of such site.

(10) Other moving-related expenses, not listed as non-allowable under paragraph (l)(3) of this section, which the Postal Service determines to be reasonable and necessary.

(e) *Fixed payment in lieu of moving expenses, business moves*—Any displaced business, other than an outdoor advertising display business, or a non-profit organization, is eligible for a fixed payment in lieu of actual moving and related expenses. This payment must be in an amount equal to the average annual net earnings of the business at that location, as computed under paragraph (i) of this section, but not less than $2,500 or more than $10,000. For a displaced person to qualify for this payment, the Postal Service must determine that:

(1) The business cannot be relocated without a substantial loss of its existing patronage (clientele or net earnings). A business is assumed to meet this test unless the Postal Service demonstrates that it will not suffer a substantial loss of its existing patronage; and

(2) The business is not part of a commercial enterprise having another establishment which is not being acquired by the Postal Service, and which is under the same ownership and engaged in the same or similar business activities. (For purposes of this rule, if the other establishment did not contribute materially to the income of the displaced person (see paragraph (h) of this section) during the 2 taxable years prior to displacement, it shall not be considered another establishment); for purposes of the preceding sentence); and

(3) The business contributed materially to the income of the displaced person during the 2 taxable years prior to displacement (see paragraph (h) of this section). However, the Postal Service may waive this test for good cause.

(f) *Determining the number of businesses*—In determining whether two or more displaced legal entities constitute a single business which is entitled to only one fixed payment, all pertinent factors shall be considered, including the extent to which:

(1) The same premises and equipment are shared;

(2) Substantially identical or interrelated business functions are carried out and business and financial affairs are commingled;

(3) The entities are held out to the public, and to those customarily dealing with them, as one business; and

(4) The same person or closely related persons own, control, or manage the affairs of the entities.

(g) *Fixed payment in lieu of moving expenses, farm operation*—Any displaced farm operation may choose a fixed payment in lieu of a payment for actual moving and related expenses in an amount equal to its average annual net earnings as computed in accordance with paragraph (i) of this section, but not less than $2,500 nor more than $10,000. For a displaced person to qualify for this payment, the Postal Service must determine that the farm operation contributed materially to the income of the displaced person during the two taxable years prior to the displacement (see paragraph (h) of this section). In the case of acquisition of land which was part of a farm operation before the acquisition, the fixed payment shall be made only if the Postal Service determines that:

(1) The acquisition of part of the land caused the operator to be displaced from the farm operation on the remaining land; or

(2) The partial acquisition caused a substantial change in the nature of the farm operation.

(h) *Contributes materially*—The term "contributes materially", as used in paragraphs (e) and (g) of this section means that, during the 2 taxable years prior to the taxable year in which displacement occurs, or during such other period as the Postal Service determines to be more equitable, a business or farm operation:

(1) Had average annual gross receipts of at least $2,000;

(2) Had average annual net earnings of at least $1,000; or

(3) Contributed at least 33⅓ percent of the owner's or operator's average annual gross income from all sources.

(4) If the application of the above criteria creates an inequity or hardship in any given case, the Postal Service may approve the use of other criteria as determined appropriate.

(i) *Average annual net earnings of a business or farm operation*—The average annual net earings of a business or farm operation are one-half of its net earnings before Federal, State, and local income taxes during the 2 taxable years immediately prior to the taxable year in which it was displaced. If the business or farm was not in operation for the full 2 taxable years prior to displacement, net earnings shall be based on the actual period of operation at the displacement site during the 2 taxable years prior to displacement, projected to an annual rate. Average annual net earnings may be based upon a different period of time when the Postal Service determines it to be more equitable. Net earnings include any compensation obtained from the business or farm operation by its owner, the owner's spouse, and dependents. The displaced person shall furnish the Postal Service proof of net earnings through income tax returns, certified financial statements, or other reasonable evidence which the Postal Service determines is satisfactory.

(j) *Nonprofit organizations*—Any displaced nonprofit organization may choose a fixed payment in lieu of a payment for actual moving and related expenses in an amount of $2,500 if the Postal Service determines that it:

(1) Cannot be relocated without a substantial loss of existing patronage (membership or clientele). A nonprofit organization is assumed to meet this

test, unless the Postal Service demonstrates otherwise; and

(2) Is not part of an enterprise having at least one other establishment engaged in the same or similar activity which is not beging acquired by the Postal Service.

(k) *Relocation of outdoor advertising signs*—The amount of a payment for direct loss of an advertising sign which is personal property is the lesser of:

(1) The depreciated replacement cost of the sign, as determined by the Postal Service, less the proceeds from its sale; or

(2) The estimated cost of moving the sign, no more than 50 miles, but with no allownace for storage.

(l) *General provisions.*—(1) *Self moves*—If the displaced person elects to take full responsibility for all or a part of the move, the Postal Service may approve a payment for the person's moving expenses in an amount not to exceed the lowest of three bids acceptable to the Postal Service. Bids may be obtained by either the displaced person or the Postal Service. A qualified Postal Service representative may prepare a moving estimate, in lieu of solicitation for bids, but in such case, the moving expense payment cannot exceed $2,500.

(2) *Transfer of ownership*—Upon request by the Postal Service and in accordance with applicable law, the displaced person may transfer to the Postal Service ownership of any personal property that is not to be moved, sold, or traded in by executing a disclaimer of all rights or interest in the property.

(3) *Non-allowable expenses*—Except as specifically otherwise provided herein, a displaced person is not entitled to payment for:

(i) The cost of moving any structure or other real property improvement in which the displaced person reserved ownership (but see § 777.25(i) and § 777.26).

(ii) Loss of goodwill.

(iii) Loss of profits.

(iv) Loss of trained employees.

(v) Any additional operating expenses of a business or farm operation caused by operating in a new location.

(vi) Personal injury.

(vii) Any legal fee or other cost for preparing a claim for a relocation payment or for representing the displaced person before the Postal Service.

(viii) Expenses for searching for a replacement dwelling.

(ix) Physical changes to the real property at the replacement location of a business or farm operation, except as provided in paragraph (d)(3) of this section.

(x) Costs for storage of personal property on real property owned or leased by the displaced person.

§ 777.24 Replacement housing payments.

(a)—Residential displaced persons are eligible for replacement housing payments as follows:

(1) Residential displaced persons who lawfully and continuously owned and occupied a displacement dwelling for not less than 180 days prior to the initiation of negotiations are entitled to the benefits set out in paragraph (b) of this section. Such displaced persons may alternately choose the benefits under paragraph (e) of this section.

(2) Residential displaced persons who lawfully and continuously owned and occupied, and residential displaced persons who were tenants and lawfully and continuously occupied, a displacement dwelling for not less than 90 days prior to the initiation of negotiations are entitled to the benefits set out in paragraph (e) of this section.

(3) Where the replacement housing payment provided hereunder does not provide for housing within the financial means (see § 777.13(j)) of the displaced person, see § 777.27, Last Resort Housing.

(b) *Benefits for 180 day owner occupants*—Displaced persons eligible under paragraph (a)(1) of this section are entitled to benefits as set out below:

(1) An amount which is the sum of:

(i) The amount which must be added to the acquisition cost of the displacement dwelling to provide a total amount equal to the lesser of:

(A) the reasonable cost of a comparable replacement dwelling as determined by paragraph (c) of this section; or

(B) the purchase price of a decent, safe and sanitary replacement dwelling actually purchased and occupied by the displaced person; plus

(ii) Interest Cost—(see paragraph (d) of this section); plus

(iii) Incidental Expenses (see paragraph (h) of this section).

(2) The benefits in paragraph (b)(1) of this section are limited to a maximum payment of $15,000.

(3) The benefits in paragraph (b)(1) of this section are available only if a decent, safe and sanitary replacement dwelling is purchased within 12 months after the latter of:

(i) The date of acquisition or, in the case of condemnation, the date the required amount is deposited in a court for the displaced person's benefit, or

(ii) The date the person moves from the displacement dwelling.

(c) *Determining the cost of a comparable replacement dwelling*—The cost of a comparable replacement dwelling for purposes of benefits to be paid to 180 day owner occupants will be determined by applying the following:

(1) If available, at least three representative comparable replacement dwellings must be examined and the payment offer computed on the cost of the fair market value of the dwelling most closely comparable to the displacement dwelling.

(2) To the extent feasible, comparable replacement dwellings will be selected from the neighborhood in which the displacement dwelling was located. If this is not possible, comparable replacement dwellings will be selected from nearby or similar neighborhoods where housing costs are similar.

(d) *Increased mortgage interest costs*—The amount to be paid to a displaced 180 day owner occupant for increased mortgage interest costs is the amount, if any, by which the present value of the interest on the mortgage loan(s) on the replacement dwelling plus any other debt service costs exceeds the present value of the interest on the mortgage loan(s) on the displacement dwelling plus purchaser's points and loan origination fees, subject to the following:

(1) The payment must be based only on bona fide mortgages that were a valid lien on the displacement dwelling for at least 180 days prior to the initiation of negotiations. All such mortgages on the displacement dwelling must be used to compute the payment.

(2) The payment must be based on the unpaid mortgage balance on the displacement dwelling or the new mortgage amount, whichever is less.

(3) The payment must be based on the remaining term of the mortgage on the displacement dwelling or the actual term of the new mortgage, whichever is shorter.

(4) The new mortgage must be a bona fide mortgage and its interest rate must not exceed the prevailing interest rate currently charged by mortgage lending institutions in the area in which the replacement dwelling is located.

(5) The discount rate used to compute the present value of the increased interest cost must be the prevailing interest rate paid on demand savings deposits by commercial banks in the area in which the replacement dwelling is located.

(6) Purchaser's points and loan origination fees, but not seller's points, are reimbursable to the extent they are not paid as incidental expenses, they do not exceed rates normal to similar real

estate transactions in the area, and the Postal Service determines them to be necessary. The computation of such points and fees shall be based on the unpaid mortgage balance on the displacement dwelling, or the new mortgage amount, whichever is less.

(e) *Benefits for 90 day owner occupant and tenants*—Displaced persons eligible under paragraph (a)(2) of this section are entitled to benefits as set out below:

(1) Rental assistance benefits, as set out in paragraph (f) of this section or downpayment assistance benefits, as set out in paragraph (g) of this section.

(2) The benefits in paragraph (e)(1) of this section are limited to $4,000.

(3) The benefits in paragraph (e)(1) of this section are available only if a decent, safe and sanitary replacement dwelling is purchased or rented within 12 months after the latter of:

(i) The date of acquisition or, in the case of condemnation, the date the required amount is deposited in the court for the displaced person's benefit, or

(ii) The date the person moves from the displacement dwelling.

(f) *Rental assistance*—The rental assistance benefits, not to exceed $4,000, for 90 day owner occupants and tenants will be computed as follows:

(1) The amount which must be added to 48 times the average monthly rental paid at the displacement dwelling (or, if the displaced person is an owner occupant, the fair market rental value had the displacement dwelling been rented) for the three-month period prior to displacement to provide a total amount equal to the lesser of:

(i) 48 times the reasonable monthly rental of a comparable replacement dwelling; or

(ii) 48 times the actual monthly rental cost of the decent, safe, and sanitary dwelling actually rented and occupied by the displaced person.

(2) If utilities are included in either the replacement dwelling or the displacement dwelling rent, appropriate utilities must be factored into both rentals. If utilities are not included in either monthly rental then the payment will be computed using the base rental rates.

(3) If, in the opinion of the Postal Service the monthly rental at the displacement dwelling is significantly below the fair market rent of the displacement dwelling, such fair market rent must be used in computing the rental assistance payment.

(4) The payment under this section must be disbursed in a lump-sum amount unless the Postal Service determines on a case-by-case basis, for good cause, that the payment should be made in installments.

(g) *Downpayment assistance*—Downpayment assistance, not to exceed $4,000, is available to 90 day owner occupants and 90 day tenants subject to the following: The payment will be the full amount of the first $2,000 of the required downpayment and incidental expenses plus one-half of any amount required for such downpayment and incidental expenses over $2,000.

(h) *Incidental expenses*—Incidental expenses covered under paragraph (b)(1) or (g) of this section are those reasonable costs actually incurred by the displaced person incident to the purchase of a replacement dwelling and customarily paid by the buyer. They include:

(1) Legal, closing, and related costs, including those for title search and insurance, preparing conveyance instruments, notary fees, preparing surveys and plats, and recording fees.

(2) Lender, FHA, or VA appraisal fees.

(3) FHA or VA application fee.

(4) Certification of structural soundness when required by the lender.

(5) Credit report.

(6) Owner's and mortgagee's evidence or assurance of title.

(7) Escrow agent's fee.

(8) State revenue or documentary stamps, sales or transfer taxes (not to exceed the costs of such for a comparable replacement dwelling).

(9) Such other costs as the Postal Service determines to be incidental to the purchase.

§ 777.25 Additional rules for replacement housing payments.

(a) *Multiple owners*—When a single family dwelling is owned by more than one person and occupied by only some of the 180 day owners (for example, when the dwelling is owned by an estate and only one of the heirs is in occupancy), the occupant(s) is (are) eligible to receive a maximum total price differential which is the lesser of:

(1) The difference between (i) the reasonable cost of a comparable replacement dwelling, as determined under § 777.24(c) and (ii) the acquisition cost of the displacement dwelling; or

(2) The difference between (i) the occupant's share of the acquisition cost of the displacement dwelling and (ii) the purchase price of a decent, safe, and sanitary replacement dwelling actually purchased and occupied by the displaced person.

(b) *Multiple occupants of one displacement dwelling*—If two or more occupants of the displacement dwelling move to separate replacement dwellings, each occupant is entitled to a reasonable prorated share, as determined by the Postal Service, of any relocation payments that would have been made if the occupants moved together to a comparable replacement dwelling. However, if the Postal Service determines that two or more occupants maintained separate households within the same dwelling, such occupants have separate entitlements to relocation payments.

(c) *Mixed use and multi-family properties acquired*—If the displacement dwelling was part of a property that contained another dwelling unit or space used for non-residential purposes, or if it is located on a lot larger than that typical for residential purposes, only that portion of the acquisition payment which is actually attributable to the displacement dwelling and site can be considered its acquisition cost when computing the price differential.

(d) *Disaster-related insurance proceeds*—To the extent necessary to avoid duplicate compensation, the amount of any insurance proceeds received by a person in connection with a disaster related loss to the displacement dwelling must be included in the acquisition cost of the displacement dwelling when computing the price differential.

(e) *Inspection of replacement dwelling*—Before making a replacement housing payment or releasing a payment from escrow, the Postal Service must inspect the replacement dwelling and determine that it is a decent, safe, and sanitary dwelling.

(f) *Purchase of replacement dwelling*—A displaced person is considered to have met the requirement to purchase a replacement dwelling if the person has purchased an existing dwelling; purchased and rehabilitated or moved and restored an existing dwelling; or constructed a new dwelling, provided in each instance the dwelling is determined to be decent, safe and sanitary.

(g) *Conversion of payment*—A displaced person who initially rents a replacement dwelling and receives a rental assistance payment may, within the required 12 month eligibility period, purchase a decent, safe and sanitary replacement dwelling. In such case, he or she is eligible to revise his or her original claim, and claim any additional assistance for which he or she was originally eligible. However, any portion of the rental assistance payment that has been disbursed must be deducted from the resultant replacement housing payment or downpayment assistance payment.

(h) *Payment after death*—A replacement housing payment is personal to the displaced person. Upon his or her death, the undisbursed portion of any such payment shall not be paid to the heirs or assigns, except that:

(1) The amount attributable to the displaced person's period of actual occupancy of the replacement housing will be paid.

(2) The full payment must be disbursed in any case in which a member of a displaced family dies and other family members continue to occupy the replacement dwelling selected in accordance with these regulations.

(3) Any portion of a replacement housing payment necessary to satisfy the legal obligation of an estate in connection with the selection of a replacement dwelling by or on behalf of a deceased person must be disbursed to the estate.

(i) *180 day owner retention of displacement dwelling*—If a 180 day owner occupant retains ownership of his or her dwelling or the right to move his or her dwelling from the displacement site, and he or she moves it and reoccupies it on a replacement site, the cost of the actual replacement dwelling to be computed for purposes of § 777.24(b)(1)(i)(A) (not to exceed the purchase price of a comparable replacement dwelling) will be the sum of:

(1) The expenses of moving and restoring the retained dwelling to a condition comparable to that prior to the move; and

(2) The salvage or other value deducted from the acquisition cost for the retained ownership; and

(3) Additional costs, if necessary, incurred to make the unit a decent, safe, and sanitary replacement dwelling; and

(4) The cost of the replacement site, not to exceed the cost of a comparable available and suitable replacement site.

(j) *90 day owner/retention of displacement dwelling*—A 90 day owner occupant who retains ownership of his or her dwelling or the right to remove his or her dwelling may receive the benefits as if he or she were a 180 day owner occupant subject, however, to a limitation of $4000 on maximum benefits in lieu of the $15,000 limitation set out in paragraph § 777.24(b)(2).

§ 777.26 Mobile homes.

(a) *Moving expenses*—Displaced persons who are occupants of mobile homes are eligible for moving expenses under § 777.23 subject to the following:

(1) If the person owns the mobile home, moving expenses may, at the owner's option, include any reasonable costs incurred to move the mobile home to a replacement site, plus the reasonable cost of disassembling, moving, and reassembling any attached appurtenances (such as porches, decks, skirting, and awnings) which were not acquired, anchoring of the unit, and utility "hook-up charges."

(2) If the person rents the mobile home, the Postal Service may allow the person moving expenses benefits for moving the mobile home as if the person were an owner of the mobile home under A above.

(3) If costs of moving a mobile home are paid as moving expenses under paragraph (a) (1) or (2) of this section, the person may not elect to receive housing assistance benefits hereunder, other than any benefits to which they are entitled that are limited to the site of the mobile home.

(4) Displaced occupants of mobile homes are eligible for moving expenses for personal property other than the mobile home and its appurtenances, but only to the extent the Postal Service does not pay the costs of moving the mobile home (either as moving expenses or replacement housing payments or, if it does pay such costs, the personal property is of a type that is customarily moved separately from the mobile home).

(b) *Replacement housing payments*—Displaced persons who are 180 day or 90 day occupants of mobile homes qualify for replacement housing payments under § 777.24 subject to the following:

(1) If the displaced person owns the mobile home and owns the site, the person is eligible for benefits under either § 777.24 (b) or (e).

(2) If the displaced person rents the mobile home and rents the site the person is eligible for benefits under § 777.24(e).

(3) If the displaced person rents the mobile home and owns the site the person is eligible for benefits under § 777.24(e), but only for such benefits as relate to costs of occupying the new dwelling, not to costs of occupying the new site. (Persons who voluntarily sell mobile home sites are not displaced persons and are not entitled to benefits under Subpart B. See § 777.13(e)(2)(ix)).

(4) If the displaced person owns the mobile home and rents the site the person is eligible for benefits under either § 777.24 (b) or (e) with regard to the mobile home and to benefits as a tenant under § 777.24(e) with regard to the site, subject to the further maximum limitation on home and site benefits combined of $15,000 for a 180 day owner occupant and $4,000 for a 90 day occupant.

(c) *Special rules for mobile homes.*

(1) In computing replacement housing payments for mobile home owners under paragraph (b) of this section, apply the terms of § 777.25 (i) and (j) as appropriate, to transactions involving moving the mobile home to a new site.

(2) The acquisition of a portion of a mobile home park may leave a remainder that is not adequate to continue the operation of the park. When the Postal Service determines that its acquisition of the real property has had this effect and that for this reason a mobile home occupant located on the remaining part of the property is required to move, such occupant shall be considered a displaced person under these regulations and shall be entitled to such benefits hereunder as the person would otherwise qualify.

§ 777.27 Last resort housing.

(a) *Basic determination to provide last resort housing*—A displaced person who would otherwise be eligible for a replacement housing payment cannot be required to move from his or her dwelling unless at least one comparable replacement dwelling is made available to him or her which is within his or her financial means. When such comparable replacement dwelling is not available, additional measures may be taken to provide for "last resort" housing for eligible displaced persons.

(b) *Basic rights of persons to be displaced*—The provisions of this section do not deprive any displaced person of any rights the person may have under these regulations such as the right to accept the maximum replacement housing payment available under these regulations and to move to a decent, safe and sanitary replacement dwelling even if such dwelling is beyond the person's financial means.

(c) *Methods of providing replacement housing*—The Postal Service has broad latitude in implementing this section, but implementation must be on a reasonable cost basis. The Postal Service may provide last resort housing using the following methods:

(1) Rehabilitation of and/or additions to an existing replacement dwelling.

(2) The construction of a new replacement dwelling.

(3) The provision of a direct loan which requires regular amortization or deferred repayment. Terms of such loan will be at the discretion of the Postal Service.

(4) A replacement housing payment in excess of the $4,000 and $15,000 limitations contained in § 777.24. A rental subsidy under this section may be provided in installments.

(5) The relocation and any needed rehabilitation of a replacement dwelling.

(6) The purchase or lease of land and/or a replacement dwelling by the Postal Service and subsequent sale or lease to, or exchange with, a displaced person.

(7) The removal of barriers to the handicapped.

(8) Any other method determined by the Postal Service to be reasonable.

§ 777.28 Claims and appeals.

(a) *Preparation of claim*—The relocation representative should assist eligible displaced persons in the preparation of claims for moving assistance and relocation housing assistance. Preliminary review should be conducted in the field by the relocation representative with the displaced person, to preclude technical difficulties in processing the claim at a higher level.

(b) *Documentation*—Any claim for a relocation payment must be supported by such documentation as may be required to support the claim, for example the length of occupancy at the displacement dwelling, the rent paid at the displacement dwelling, expenses incurred in relocating, etc. A displaced person must be provided reasonable assistance to complete and file any required claim.

(c) *Time for filing*—All claims must be filed with the Postal Service within 18 months after the date of the actual move from the displacement property.

(d) *Review, approval and payment*—The Postal Service will review claims within 60 days of submission and approve or disapprove payment. Upon approval or partial approval of the displaced person's claim, the Postal Service will promptly authorize payment of the approved amount. The certification that the claimant has occupied decent, safe, and sanitary housing must be completed prior to final payment of replacement housing payments.

(e) *Relocation payments not considered as income*—Upon approval of the claim and delivery of the relocation payment, the displaced person must be advised that no relocation payment made under these procedures shall be considered as income for the purpose of the Internal Revenue Code of 1954, or for the purpose of determining the eligibility or the extent of eligibility of any person for assistance under the Social Security Act of any other Federal law.

(f) *Certification*—Certification that a person is displaced will be provided any agency requiring such information to assist that person under any Federal law or program.

(g) *Advance of funds*—If the displaced person cannot arrange for the acquisition of a replacement property because of financial problems and the problems would be solved by an advance of funds, the Postal Service may determine the estimated amount of the actual claim and authorize an advance of that amount or a portion thereof. The displaced person will be fully informed in writing that his or her final claim will then be subject to adjustment. Advance payments should not be made to persons with a history of financial irresponsibility.

(h) *Money owed to the Postal Service*—In cases of Postal Service leasing the acquired property to a displaced person, or in cases of advance moving cost payments, any monies due the Postal Service by the displaced person and not paid before the remainder of the relocation payments are made must be deducted from such payments and the relocation file so documented.

(i) *Notice of denial of claim*—If the Postal Service disapproves all or part of a payment claimed, or refuses to consider the claim on its merits because of untimely filing or other grounds, it must promptly notify the claimant in writing of the determination, the basis for the determination, and the procedures for appealing the determination.

(j) *Appeal procedure*—If a displaced person wishes to file an appeal:

(1) The appeal must be in writing.

(2) The appeal must be directed to the General Manager, Real Estate Division, and must set forth the displaced person's reasons for the appeal. (The General Manager shall not have taken part in the decision which led to the appeal. Appeals misdirected to others must be forwarded immediately to the General Manager with notification of the forwarding to the appellant.)

(3) The appeal must be submitted within 60 days after the displaced person receives written notification of the Postal Service's original determination concerning the displacee's claim. The Postal Service may extend this time limit for good cause.

(k) *Right of representation*—A displaced person has a right to be represented by legal counsel or other representative in connection with his or her appeal, but solely at the person's own expense.

(l) *Review of files by appellant*—The Postal Service must permit a person to inspect and copy all materials pertinent to his or her appeal, except materials which are confidential. Such inspection will be permitted as allowed under the Freedom of Information Act, 39 CFR Part 265.

(m) *Scope of review*—In deciding an appeal, the Postal Service must consider all pertinent justification and other material submitted by the displaced person and all other available information that is needed to ensure a fair and full review of the appeal.

(n) *Determination and notification after appeal*—Promptly after receipt of all supporting information submitted by the appellant, the General Manager, Real Estate Division, must make a written determination on the appeal, including the basis on which the decision was made, and furnish the appellant a copy. If the full relief requested is not granted at the regional level, the General Manager, Real Estate Division, must advise the person of his or her right to appeal the decision to the Director, Office of Real Estate. The rules stated here for appeals to the General Manager apply as well as to appeals to the Director, Office of Real Estate.

Subpart C—Acquisition

§ 777.31 Acquisition procedures.

(a) *Policy; application of section*—The Postal Service, as a matter of policy, acquires interests in real property through voluntary agreements with owners. Only under unusual and compelling circumstances, and on a case-by-case basis, does the Postal Service acquire real property through the exercise or the threat of the exercise of eminent domain. This policy does not, however, prevent the Postal Service from occasionally entering into mutually agreeable condemnation proceedings with an owner, where price is not an issue, and for such purposes as to clear title or to acquire property from certain elected officials. For the purposes of this section, the Postal Service does not consider such voluntary and mutually agreeable uses of condemnation proceedings as the exercise or the threat of the exercise of eminent domain. The following regulations apply only to acquisitions by the exercise or the threat of the exercise of eminent domain.

(b) *Notice to owner*—As soon as feasible after deciding to acquire a specific property through the exercise of eminent domain, the Postal Service must notify the owner of its intent to acquire the property.

(c) *Expeditious negotiations*—The Postal Service must make every reasonable effort to acquire real property expeditiously by negotiation.

(d) *Appraisal and invitation to owner*—Before the initiation of negotiations, the real property shall be

appraised in accordance with Postal Service appraisal standards as outlined in RE–1 and the owner or the owner's designated agent shall be given an opportunity to accompany the appraiser during the appraiser's inspection of the property.

(e) *Establishment of offer of just compensation*—Prior to the initiation of negotiations (see § 777.13(k) for definition) the Postal Service must establish an amount which it believes is just compensation for the real property rights being acquired. The amount must not be less than the approved appraisal of the fair market value, including damages or benefits to the remaining property.

(f) *Summary statement*—Promptly after determining fair market value, the Postal Service shall make a written offer to acquire the property for the full amount believed to be just compensation. Along with the written purchase offer, the owner must be given a written statement of the basis for the offer of just compensation. This statement must include:

(1) A statement of the amount offered as just compensation. In the case of a partial acquisition, the compensation for the real property to be acquired and the compensation for damages, if any, must be separately stated.

(2) The location and description of the real property and the interest(s) to be acquired.

(3) An identification of the buildings, structures, and other improvements (including removable building equipment and trade fixtures) which are considered part of the real property for which the offer of just compensation is made. Where appropriate, the statement shall identify any separately held ownership interest in the improvement(s), for example, a tenant-owned improvement.

(g) *Basic negotiation procedures*—The Postal Service must make every reasonable effort to contact the owner or the owner's representative and:

(1) Discuss the Postal Service's offer to purchase the property including the basis for the offer of just compensation, and;

(2) Explain Postal Service acquisition policies and procedures including the provisions for the payment of incidental expenses as described under § 777.33.

(h) *Opportunity to consider offer*—The owner must be given a reasonable opportunity to consider the Postal Service's offer, to present material which he or she believes is relevant to determining the value of the property, and to suggest modification in the proposed terms and conditions of the purchase. The Postal Service must consider the owner's presentation.

(i) *Updating offer of just compensation*—If the information presented by the owner or a material change in the character or condition of the property indicates the need for new appraisal information, or if a significant delay has occurred since the time of the appraisal(s) of the property, the Postal Service must have the appraisal(s) updated or obtain a new appraisal(s). If the latest appraisal information indicates that a change in the purchase offer is warranted, the Postal Service must promptly reestablish just compensation and offer the revised amount to the owner in writing.

(j) *Contracts and options*—Contracts to purchase shall cover only those items related to the acquisition of the property, and not incorporate provisions for making payments for relocation costs or related costs under Title II of these regulations. Appraisers shall not give consideration to, or include in their real property appraisals, any allowances for the benefits provided by Title II of the Act. In the event of condemnation, estimated compensation shall be determined solely on the basis of the appraised value of the real property with no consideration being given to or reference contained therein to the payments to be made under Title II.

(k) *Coercive action*—The Postal Service shall not advance the time of condemnation, or defer negotiations or condemnation, or the deposit of funds with the court, or take any other coercive action in order to induce an agreement on the price to be paid for the property.

(l) *Inverse condemnation*—If the Postal Service intends to acquire any interest in real property by exercise of the power of eminent domain, it must institute formal condemnation proceedings and not intentionally make it necessary for the owner to institute proceedings to prove the fact of the taking of the real property.

(m) *Payment before taking possession*—Before requiring the owner to surrender possession of the real property, the Postal Service must either:

(1) Pay the agreed purchase price to the owner; or

(2) In the case of a condemnation proceeding, deposit with the court for the benefit of the owner an amount not less than the amount of the approved appraised value of the property or the amount of the award of compensation in the condemnation proceeding for the property.

(n) *Right-of-entry*—With the prior approval of the owner, the Postal Service may obtain a right-of-entry before making payment to the owner.

§ 777.32 Acquisiton of tenant-owned improvements.

(a) *Acquisition of improvements*—When acquiring any interest in real property, the Postal Service must acquire at least an equal interest in all buildings, structures, or other improvements located upon the real property. This must include any improvement of a tenant owner who has the right or obligation to remove the improvement at the expiration of the lease term.

(b) *Special conditions*—Payment for tenant-owned improvements will be made to the tenant only if he or she meets the following conditions:

(1) In consideration for the payment the tenant-owner assigns, transfers, and releases to the Postal Service all of the tenant-owner's rights, title, and interests in the improvement;

(2) The owner of the real property on which the improvement is located disclaims all interest in the improvement; and

(3) The payment does not result in the duplication of any compensation otherwise authorized by law.

§ 777.33 Expenses incidental to transfer of title to the Postal Service.

(a) *Reimbursement*—When property is acquired through the exercise or the threat of the exercise of eminent domain, the owner shall be reimbursed for all reasonable expenses he or she necessarily incurred in conveying the real property to the Postal Service for:

(1) Recording fees, transfer taxes, documentary stamps, evidence of title, boundary surveys, legal descriptions of the real property, and similar incidental expenses. However, the Postal Service will not pay costs solely required to perfect the owner's title to the real property.

(2) Penalty costs and other charges for prepayment of any preexisting recorded mortgage, entered into in good faith, encumbering the real property.

(3) The pro rata portion of any prepaid real property taxes which are allocable to the period after the Postal Service obtains title to the property or effective possession of it, whichever is earlier.

(b) *Direct payment*—Whenever feasible the Postal service must pay these costs directly and thus avoid the need for an owner to pay such costs and then seek reimbursement from the Postal Service.

(c) *Certain litigation expenses*—The owner of the real property acquired must be reimbursed any reasonable

expenses, including reasonable attorney, appraisal, and engineering fees which the owner actually incurred because of a condemnation proceeding if:

(1) The final judgment of the court is that the Postal Service cannot acquire the real property by condemnation; or

(2) The condemnation proceeding is abandoned by the Postal Service other than under an agreed-upon settlement; or

(3) The court having jurisdiction renders a judgment in favor of the owner in an inverse condemnation proceeding or the Postal Service effects a settlement of such a proceeding.

Subpart D—Voluntary Acquisitions

§ 777.41 Acquisition procedures.

(a) *Voluntary acquisitions*—Acquisition rules for voluntary purchases are set out in other Postal Service regulations and cover such areas as appraisal and negotiation procedures.

(b) *Tenant-owned improvements*—In general the Postal Service deals exclusively with the fee owner on the acquisition of all real property interest at the site. The Postal Service may, however, in exceptional cases deal directly with a tenant on a leasehold improvements matter. Should the Postal Service acquire the fee interest without acquiring rights in a leasehold improvement under circumstances in which the tenant would be entitled to compensation under § 777.32 above if the acquisition were by eminent domain or under threat thereof, the tenant will be entitled to the benefits that would, under such circumstances, have been paid under § 777.32 above, unless the tenant has formally disclaimed further right in the real property improvement beyond the time of the expiration of his or her tenancy.

Subpart E—Donations

§ 777.51 Acceptance of donations.

Nothing in these regulations shall prevent a person from making a gift or donation of real property or any part thereof, or any interest therein, or of any compensation paid therefor, to the Postal Service. The Postal Service may obtain an appraisal of the real property for income tax or other purposes if the owner thereof requests the Postal Service to do so.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 85-12440 Filed 5-24-85; 8:45 am]

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federal register

Tuesday
May 28, 1985

Part VII

Department of Education

Office of Bilingual Education and Minority Languages Affairs

34 CFR Parts 503 and 548

Bilingual Education; State Educational Agency Program; Proposed Rule

DEPARTMENT OF EDUCATION

Office of Bilingual Education and Minority Languages Affairs

34 CFR Parts 503 and 548

Bilingual Education: State Educational Agency Program

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to issue regulations under Section 732 of Part B of the Bilingual Education Act, as amended. The recent amendments to the Act, in Pub. L. 98-511, necessitate the changes incorporated in the proposed regulations. The State Educational Agency Program provides financial assistance to State educational agencies (SEAs) to collect, aggregate, analyze, and report data on limited English proficient persons, and the educational services provided or available to such persons in the States. The program further provides for additional services that support programs of bilingual education in the States.

DATE: Comments must be received on or before June 27, 1985.

ADDRESSES: Comments should be addressed to Mr. Luis A. Catarineau, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone (202) 245-2922.

A copy of any comments that concern information collection requirements should also be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble.

FOR FURTHER INFORMATION CONTACT: Mr. Luis A. Catarineau. Telephone (202) 245-2922.

SUPPLEMENTARY INFORMATION: The State Educational Agency Program is authorized under section 732 of the Bilingual Education Act, Title VII of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 98-511 (Title VII).

(20 U.S.C. 3221-3262)

This program provides financial assistance to State educational agencies (SEAs) to collect, aggregate, analyze, and report data on limited English proficient persons, and educational services provided or available to such persons in their States. The program further provides for additional services that support programs of bilingual education, in the States. The proposed regulations implement section 732 of Part B of the Bilingual Education Act, as amended by Pub. L. 98-511, and incorporate the Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, 78, and 79) except as otherwise noted.

Following is a summary of the proposed regulations:

(a) *Subpart A—General*

Section 548.1 of the proposed regulations describes the scope and purpose of the program.

Section 548.2 identifies the parties eligible for assistance under this program.

Section 548.3 identifies the regulations that apply to this program.

Section 548.4 identifies the definitions that apply to this program. It specifies that the definitions in 34 CFR 500.4 apply only to awards made subsequent to Fiscal Year 1985.

(b) Subpart B—What Kinds of Projects Does the Secretary Assist Under this Program?

Section 548.10(a) requires the applicant to collect, aggregate, analyze, and publish data on limited English proficient persons in the State and the educational services provided or available to those persons.

Section 548.10(b) references a survey form which will be provided to the applicant to report the data collected.

Section 548.10(c) identifies the data that an SEA is required to collect under section 732. Much of the information required at § 548.10(c) will be submitted to the SEAs by each LEA in the State that applies for Title VII funds, in accordance with the requirements of section 721(c) of Title VII.

Section 548.10(d) and (e) require an SEA to submit the completed survey form to the Secretary on or before the date established by the Secretary in the **Federal Register**, and to make the completed form available to the public, particularly to limited English proficient persons. The data submitted to the Secretary by SEAs must be data that pertains to the fiscal year in which the award is made.

Section 548.11 discusses the additonal activities authorized at section 732(c) for SEAs. An SEA may propose any of these additional activities, indicating its order of preference for funding.

(c) Subpart C— How Does an SEA Apply for an Award?

Section 548.20 requires an SEA to include an assurance that it will work cooperatively with the Multifunctional Resource Centers funded at section 742 of Title VII, the Bilingual Evaluation and Assistance Centers funded at section 734 of Title VII, the National Clearinghouse for Biligual Education funded at section 735(b)(5) of Title VII, and other service providers of LEA technical assistance in the State.

(d) Subpart D—How Does the Secretary Make an Award?

Section 548.30 describes the distribution of funds to SEAs. An SEA shall not be paid for any fiscal year an amount less than $50,000 nor greater than 5 percent of the total amount paid to local educational agencies (LEAs) witin the State under Part A of the Act during the fiscal year preceding the year for which assistance is sought. For Fiscal Year 1985 funding, an SEA shall not be paid an amount greater than 5 percent of the total amount paid in Fiscal Year 1984 to LEAs under the Basic Projects Program and the Demonstration Projects Program previously authorized under section 721 of Title VII, as amended by Pub. L. 95-561 and 34 CFR Parts 501 and 502 (1984), respectively.

Section 548.31 describes how the Secretary evaluates an SEA's application. It further indicates that the Secretary permits an SEA to revise and resubmit an application that scores below 50 points under the selection criteria.

Section 548.32 describes the proposed selection criteria used to award a grant. These criteria provide a basis for determining the quality of an application and project components. The Secretary also uses the information to determine that the activities are designed to achieve the purposes of the program and that the budget is reasonable and cost effective for all of the proposed activities.

Section 548.40 requires the SEA to use funds made available under this program to supplement and, to the extent practical, increase the level of funds that, in the absence of the grant, would have been made available by the State for activities required and authorized under this program. In no case shall the funds made available under this program be used to supplant funds already being provided, or funds that would have been provided by the State, for these activities.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the Order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations will not have a significant economic impact on a substantial number of small entities. This program provides assistance to State educational agencies. State entities are not considered small entities under the Regulatory Flexibility Act.

Paperwork Reduction Act of 1980

Section 548.10 contains information collection requirements. As required by section 3504(h) of the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of these proposed regulations to the Office of Management and Budget (OMB) for its review. Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 3208, New Executive Office Building, Washington, D.C. 20503; Attention: Joseph F. Lackey, Jr.

All other comments regarding these proposed regulations should be sent to the Department of Education at the address given at the beginning of this preamble.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

In accordance with the Order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding the proposed regulations. The Secretary is cognizant of the heavy burden placed on the States in the collection, aggregation, analysis and reporting of the data of limited English proficient persons and the educational services provided or available to such persons. However, the data required in § 548.10 (b) and (c) of the proposed regulations is mandated by legislation, section 721(c)(2) of Pub. L. 98-511. Nonetheless, comments and suggestions are invited on the method of collecting the data.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 421, Reporters Building, 300 7th Street, S.W., Washington, D.C. between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, public comment is invited on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

List of Subjects in 34 CFR Part 548

Bilingual education, Education, Elementary and secondary education, Grant programs—education, Reporting and recordkeeping requirements.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these proposed regulations.

(Catalog of Federal Domestic Assistance Number 84.003, Bilingual Education)

Dated: May 22, 1985.

William J. Bennett,

Secretary of Education.

The Secretary proposes to amend Title 34 of the Code of Federal Regulations by removing Part 503 and adding a new Part 548 as follows:

PART 503—BILINGUAL EDUCATION: STATE EDUCATIONAL AGENCY PROJECTS FOR COORDINATING TECHNICAL ASSISTANCE [REMOVED]

1. Part 503 is removed.

2. A new Part 548 is added to read as follows:

PART 548—BILINGUAL EDUCATION: STATE EDUCATIONAL AGENCY PROGRAM

Subpart A—General

Sec.

Subpart B—What Kinds of Projects Does the Secretary Assist Under This Program?

Subpart C—How Does an SEA Apply for an Award?

Subpart D—How Does the Secretary Make an Award?

Subpart E—What Conditions Must Be Met by a Recipient?

Authority: Title VII of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 98-511, 98 Stat. 2370 (20 U.S.C. 3221-3262), unless otherwise noted.

Subpart A—General

§ 548.1 State Educational Agency Program.

The State Educational Agency Program provides financial assistance to State educational agencies (SEAs) to—

(a) Collect, aggregate, analyze, and publish data and information on the limited English proficient persons in their States and the educational services provided or available to those persons; and

(b) Carry out activities designed to improve the effectiveness of programs of bilingual education in their States, such as those assisted under Title VII.

(20 U.S.C. 3242)

§ 548.2 Who is eligible to apply for assistance under the State Educational Agency Program?

A State educational agency (SEA) is eligible to apply for assistance under this program.

(20 U.S.C. 3242)

§ 548.3 What regulations apply to the State Educational Agency Program?

The following regulations apply to the State Educational Agency Program:

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 74 (Administration of Grants), Part 75 (Direct Grant Programs), except for § 75.217(a)(3) and (c)-(e) (relating to review of applications), Part 77 (Definitions That Apply to Department Regulations), Part 78 (Education Appeal Board), and Part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(b) The regulations in this Part 548.

(20 U.S.C. 3242(a))

§ 548.4 What definitions apply to the State Educational Agency Program?

The definitions in 34 CFR Part 77 apply to the State Educational Agency Program.

(a) The following terms used in this part are defined in 34 CFR 77.1:

Applicant
Application
Award
Budget
EDGAR
Elementary school
Fiscal year
Grant
Grantee
Local educational agency
Nonpublic
Private
Project
Public
Secondary school
Secretary
State
State educational agency

(b) The definitions in 34 CFR 500.4 apply to awards made subsequent to Fiscal Year 1985.

(20 U.S.C. 3242)

Subpart B—What Kinds of Projects Does the Secretary Assist Under This Program?

§ 548.10 What activities are required under this program?

(a) An SEA that receives a grant under this program shall collect, aggregate, analyze, and publish data and information on the limited English proficient persons in the State and the educational services provided or available to those persons.

(b) The SEA shall use the survey form provided by the Secretary to report the data required to be collected under this section.

(c) The data collected under this section must include—

(1) Statewide data concerning—

(i) The number of children enrolled in elementary and secondary public schools;

(ii) The number of children enrolled in elementary and secondary private schools who reside in the area(s) served by the State's local educational agencies (LEAs);

(iii) The number of limited English proficient children enrolled in elementary and secondary public and private schools in the area(s) served by the State's LEA(s);

(iv) Method(s) used to identify the limited English proficient children;

(v) Evidence of the educational condition of the limited English proficient children, such as reading, mathematics, and subject matter test scores and, where available, data on grade retention rates, rates of referral to and placement in special education programs, and student dropout rates;

(vi) The number of limited English proficient children enrolled in instructional programs specifically designed to meet their educational needs, and a description of those programs; and

(vii) Educational services provided or available; and

(2) Information from LEAs within the State concerning—

(i) The number of limited English proficient children enrolled in public or private schools in the area served by the LEAs who need or could benefit from programs assisted under Title VII; .

(ii) The number of children who are to receive instruction through the programs proposed by LEAs within the State under Section 721 of Title VII, and the extent of their educational needs;

(iii) A statement of each applicant's ability in the State to serve children of limited English proficiency;

(iv) An assessment of the qualifications of personnel who will participate in the proposed programs and of the need for further training of these personnel;

(v) The resources needed to develop and operate or improve the proposed programs;

(vi) The activities that would be undertaken under the proposed programs and how these activities will improve the educational attainment of students and expand the capacity of the applicants to operate programs such as those assisted under Title VII when Federal assistance under Section 721 is no longer available; and

(vii) The specific educational goals of the proposed programs and how achievement of these goals will be measured.

(d) An SEA shall submit to the Secretary the completed survey form for its State containing the information required under paragraph (c) of this section, on or before the date established by the Secretary in the **Federal Register.**

(e) An SEA shall make the completed survey form available for publication and dissemination to the public, particularly to persons of limited English proficiency in the State.

(20 U.S.C. 3242(b))

§ 548.11 What additional activities may a State educational agency (SEA) provide under this program?

(a) An SEA may propose any of the following additional activities:

(1) Planning and developing educational programs such as those assisted under Title VII.

(2) Reviewing and evaluating programs of bilingual education, including bilingual education programs that are not funded under Title VII.

(3) Providing, coordinating, or supervising technical and other forms of non-financial assistance to LEAs, community organizations, and private elementary and secondary schools that serve limited English proficient persons.

(4) Developing and administering instruments and procedures for the assessment of the educational needs and competencies of limited English proficient persons.

(5) Training SEA and LEA staff to carry out the purposes of programs assisted under Title VII.

(6) Other activities and services designed to build the capacity of SEAs and LEAs to meet the educational needs of limited English proficient persons.

(b) An SEA shall indicate its priorities for funding.

(20 U.S.C. 3242(c))

Subpart C—How Does an SEA Apply for an Award?

§ 548.20 What must an SEA include in its application?

An SEA shall assure the Secretary in its application that it will work cooperatively with and coordinate efforts with the Multifunctional Resource Centers, the Bilingual Evaluation Assistance Centers, the National Clearinghouse for Bilingual Education, and other LEA technical assistance service providers in the State.

(20 U.S.C. 3242)

Subpart D—How Does the Secretary Make an Award?

§ 548.30 How are funds distributed to an SEA?

(a) The Secretary may award to an SEA funds necessary for the proper and efficient conduct of a project under this program.

(b)(1) The amount paid to an SEA for any fiscal year may not be less than $50,000 nor greater than 5 percent of the total amount paid to LEAs within the State under Part A of Title VII during the fiscal year preceding the year for which assistance is sought.

(2) The amount paid to an SEA for Fiscal Year 1985 may not be greater than 5 percent of the total amount paid in Fiscal Year 1984 to LEAs under the Basic Projects Program and the Demonstration Projects Program previously authorized under section 721

of Title VII, as amended by Pub. L. 95–561 and 34 CFR Parts 501 and 502 (1984), respectively.

(c) In determining the amount of an award to an SEA the Secretary considers—

(1) The reasonableness of an SEA's proposed budget to carry out the activities required under § 548.10;

(2) The need for any of the additional activities proposed under § 548.11; and

(3) The total funds available for awards to SEAs under this program.

(20 U.S.C. 3242(d))

§ 548.31 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application on the basis of the criteria listed in § 548.32 in deciding whether to approve a program under section 732.

(b) The Secretary awards a maximum of 100 points to evaluate the activities under § 548.10 and the additional activities an SEA may propose under § 548.11.

(c) The maximum possible score for each complete criterion is indicated in parentheses after the heading for each criterion.

(d) The Secretary awards a grant to each SEA that—

(1) Meets the applicable requirements in Section 732 and in this part; and

(2) Submits an application that achieves a score of at least 50 points under the selection criteria.

(e) The Secretary permits an SEA to modify and resubmit an application that has been disapproved under paragraph (d)(2) of this section.

(20 U.S.C. 3242)

§ 548.32 What selection criteria does the Secretary use?

The Secretary uses the following selection criteria in evaluating each application:

(a) *Plan of operation.* (25 points)

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows—

(i) High quality in the design of the project;

(ii) An effective plan of management that insures proper and efficient administration of the project;

(iii) A clear description of how the objectives of the project relate to the purpose of the program;

(iv) The way the applicant plans to use its resources and personnel to achieve each objective;

(v) A clear description of how the applicant will provide equal access and treatment for eligible project participants who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly;

(vi) The methods the SEA proposes to use to provide services; and

(vii) The SEA's plans to work cooperatively with and coordinate activities with other providers of technical assistance to avoid duplication of services to the LEAs in the State.

(b) *Capacity building.* (25 points) The Secretary reviews each application for information that shows—

(1) A clear and concise plan for developing resources, including activities such as the training of SEA personnel, that will increase the capacity of the State to—

(i) Collect and analyze data necessary to identify and promote effective educational programs and practices for limited English proficient students; and

(ii) Carry out other activities assisted under this part.

(2) The commitment of the State to incorporate and build the proposed activities into the State's overall ongoing programs designed to improve services to LEAs in the State.

(c) *Quality of key personnel.* (25 points)

(1) The Secretary reviews each application for information that shows the qualifications of the key personnel the applicant plans to use on the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) Participation of trained personnel in fields related to the objectives of the project;

(iv) The time that each person referred to in paragraphs (c)(2) (i) and (ii) of this section will commit to the project; and

(v) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(3) To determine personnel qualifications, the Secretary considers experience and training, in fields related to the activities of the project, as well as other information that the applicant provides.

(d) *Cost effectiveness.* (10 points) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective for the proposed activities under section 732.

(e) *Evaluation plan.* (10 points)

(1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project.

Cross-Reference. See 34 CFR 75.590 Evaluation by the grantee.

(2) The Secretary looks for information that shows—

(i) The method used to determine effectiveness of activities included in the SEA plan;

(ii) How the applicant determines the effect of the activities on LEA operations; and

(iii) Methods used to improve delivery of services to LEAs.

(f) *Adequacy of resources.* (5 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project.

(2) The Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(20 U.S.C. 3242)

Subpart E—What Conditions Must Be Met by a Recipient?

§ 548.40 What requirements apply to an SEA?

An SEA shall use funds made available under this program to supplement and, to the extent practical, increase the level of funds that, in the absence of the grant, would have been made available by the State for activities required and authorized under this program. In no case may the funds made available under this program be used to supplant funds already being provided, or funds that would have been provided, by the State for these activities.

(20 U.S.C. 3242(e))

[FR Doc. 85–12823 Filed 5–24–85; 8:45 am]

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Tuesday
May 28, 1985

Part VIII

Environmental Protection Agency

40 CFR Part 280

Notification Requirements for Owners of Underground Storage Tanks; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 280

[SWH-FRC 2827-6]

Notification Requirements for Owners of Underground Storage Tanks

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: New Subtitle I of the Resource Conservation and Recovery Act (RCRA), as amended, establishes a comprehensive scheme for the regulation of underground storage tanks that are used to contain petroleum products or any substance defined as hazardous under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). Among the new requirements established by Subtitle I, section 9002 of RCRA requires owners of underground storage tanks (including tanks in use, tanks brought into use after May 8, 1986, and tanks taken out of operation after January 1, 1974, but still in the ground) to notify a State or local agency (to be designated by State governors) of the existence of such tanks. This proposed rule prescribes two notification forms and the information they must contain. These forms must be used by all owners subject to the Section 9002 notification provisions unless the State in which the tank is located requires use of its own form or forms and such form(s) meet the requirements of Section 9002. This proposed rule also codifies certain key definitions set forth in the new statutory provisions.

DATES: All comments received on or before July 15, 1985 will be considered by the Agency before taking action on the proposed rule.

The Agency will hold public hearings on July 2, 1985, in Denver, Colorado, and on July 10, 1985, in Washington, D.C. In Denver the hearing will be held at the Westin Hotel, Tabor Center, 1672 Lawrence Street, Denver, Colorado 80202. In Washington, D.C., the hearing will be held at the Department of Health and Human Services, North Auditorium, 330 Independence Avenue, SW., Washington, D.C. 20201. The hearings will begin at 9:00 a.m. with registration beginning at 8:30 a.m. The hearings will end at 4:30 p.m., unless concluded earlier.

Oral and written statements may be submitted at the public hearings. Persons who wish to make oral presentations must restrict their presentations to 10 minutes, and are requested to provide written copies of their complete comments for inclusion in the official record.

ADDRESSES: Comments should be submitted to the Docket Clerk [Docket No. 9002], Office of Solid Waste [WH-562], U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Requests to participate in the public hearings should be directed to Ms. Geraldine Wyer, Public Participation Officer, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

The official record for this rulemaking is located in Room S212, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. This information is available for viewing from 9:00 a.m. to 4:00 p.m. Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: The RCRA/Superfund Hotline at (800) 424-9346 (toll free) or (202) 382-3000 in Washington, D.C., or Penelope Hansen, Office of Solid Waste (WH-565A), U.S. Environmental Protection Agency, Washington, D.C. 20460, (202) 382-7917.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. The Statutory Framework

The Hazardous and Solid Waste Amendments of 1984, Pub. L. 98-616 ("The 1984 Amendments") were signed by the President on November 8, 1984. These Amendments extend and strengthen the provisions of the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act ("RCRA") of 1976. One major portion of this new legislation, Subtitle I, provides for the development and implementation of a comprehensive regulatory program for underground storage tanks that contain petroleum and other regulated substances.

Subtitle I was included in the legislation because of an increasing awareness that there is a growing problem related to underground storage tanks that are or were used to store regulated substances. The Conference Committee report on the 1984 amendments cited petroleum industry estimates that as many as 75,000 to 100,000 underground tanks are now leaking and that an additional 360,000 underground tanks may develop leaks within the next five years. The committee's report also stated that, although it is difficult to determine the precise source of ground-water contamination, underground storage tanks are considered the source or probable source of a substantial number of ground-water contamination cases. Ground-water contamination monitoring undertaken by several States has substantiated this assumption. For example, one State (Michigan) that has carefully monitored ground-water contamination has concluded that storage tanks are the leading cause of ground-water contamination (30 percent to 441 known incidents). Some States have requested greater Federal involvement, including regulations to help resolve this growing environmental problem. In the Conference Committee's report, the conferees expressed their belief that because half the population of the United States depends on ground water as a source of drinking water, the underground storage tank problem has been recognized as one of national significance requiring Federal legislation.

To assist the States in locating and evaluating underground storage tanks, Congress required in Section 9002 of Subtitle I that owners of underground storage tanks notify designated State or local agencies of the existence of their tanks.

B. Definitions

Section 9001 of Subtitle I sets forth definitions for several key terms used in the statute. EPA will issue a final rule codifying several of these statutory definitions in the Code of Federal Regulations including definitions for the terms "underground storage tank," "regulated substance," "release," and "person." Today, the Agency is proposing to codify the remaining definitions set forth in Section 9001. These include definitions for the terms "owner," "operator," and "nonoperational tank."

The following paragraphs set forth certain statutory definitions that pertain to the universe of tank owners and operators governed by Subtitle I, and the notification requirements of section 9002.

Underground storage tank is defined in Section 9001(1) of Subtitle I as any one or combination of tanks (including underground pipes connected thereto) which is used to contain an accumulation of regulated substances, and the volume of which (including the volume of the underground pipes connected thereto) is 10 percent or more beneath the surface of the ground.

Section 9001(1) excludes the following from the definition of underground storage tank:[1]

[1] The term underground storage tank does *not* include any pipes connected to any of the tanks described in the exclusions.

(1) Farm or residential tanks of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;

(2) Tanks used for storing heating oil for consumptive use on the premises where stored;

(3) Septic tanks;

(4) Pipeline facilities (including gathering lines) regulated under (a) the Natural Gas Pipeline Safety Act of 1968; (b) the Hazardous Liquid Pipeline Safety Act of 1979, or (c) which is an intrastate pipeline facility regulated under States laws comparable to the provisions of law referred to in (a) and (b) above;

(5) Surface impoundments, pits, ponds, or lagoons;

(6) Storm water or wastewater collection systems;

(7) Flow-through process tanks;

(8) Liquid traps or associated gathering lines directly related to oil or gas production and gathering operations; or

(9) Storage tanks situated in an underground area (such as a basement, cellar, mineworking, drift, shaft, or tunnel) if the tank is situated upon or above the surface of the floor.

The term *regulated substance* is defined in Section 9001(2) as: (1) Any substance defined in Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (but not including any substance regulated as a hazardous waste and under Subtitle C of the Solid Waste Disposal Act); and (2) petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute).

Underground storage tanks include both operational and nonoperational tanks. Section 9001(7) defines *nonoperational underground storage tank* as any underground storage tank into which regulated substances will not be deposited or from which regulated substances will not be dispensed after November 8, 1984.

The notification provisions of Section 9002 affect mainly owners of underground storage tanks. Future regulations required to be promulgated under Section 9003, however, must apply to owners and operators. The term *owner* is defined in Section 9001(3) as: (a) In the case of an underground storage tank in use on the date of enactment of the Hazardous and Solid Waste Amendments of 1984, or brought into use after that date, any person who owns an underground storage tank used for the storage, use, or dispensing of regulated substances; and (b) in the case of any underground storage tank in use before the date of enactment of the Act, but no longer in use on the date of enactment, owner means any person who owned such tank immediately before the discontinuation of its use.

The term *operator* is defined in Section 9001(4) as any person in control of, or having responsibility for the daily operation of, the underground storage tank. Section 9001(6) defines the term *person* as an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, consortium, joint venture, commercial entity, the United States Government, State, municipality, commission, political subdivision of a State, or any interstate body.

II. Notification Requirements

A. What are the Section 9002 Obligations?

Section 9002(a)(1) of Subtitle I requires owners of underground storage tanks currently in use for the storage, use, or dispensing of regulated substances to notify, by May 8, 1986, the appropriate State or local department or agency (designated by the Governor pursuant to section 9002(b)) of the existance of such tanks. Owners are required to provide such departments or agencies with information about the age, size, type, location, and use of each tank.[2]

Section 9002(a)(2) requires owners of underground storage tanks taken out of operation after January 1, 1974, to provide notice of the existence of their tanks to designated departments or agencies. Owners of these tanks are also required to provide, to the extent known, the following information: (1) The date the tank was taken out of operation; (2) the age of the tank on the date taken out of operation; (3) the size, type, and location of the tank; and (4) the type and quantity of substances left stored in such tank on the date taken out of operation.

Exempted from these requirements of section 9002 are: (1) Owners of nonoperational tanks who know that the tanks have been removed from the ground, and (2) owners who provided notice to EPA of their tanks pursuant to CERCLA section 103(c).

Section 9002(a)(3) requires owners who bring underground storage tanks into use after May 8, 1986, to notify the designated departments or agencies, within 30 days of bringing the tanks into use, and to include information on the age, size, type, location, and use of such tanks.

In addition to the above notification requirements, section 9002(a) (5) and (b) impose obligations on persons who deposit regulated substances in tanks and on tank sellers. Beginning 30 days after EPA promulgates the form of notice, and for 18 months thereafter, any person who deposits regulated substances in an underground storage tank must "reasonably notify" the owner or operator of such tank of the owner's notification obligations. Persons who put regulated substances in a tank may include operators, distributors, and transporters. The Agency believes that if a person who deposits regulated substances in a tank leaves a copy of the proposed notification form (or alternate State form) with the owner or operator, such an act constitutes a reasonable effort to inform the owner of his obligation. An acceptable alternative to this approach would involve printing the notification requirements on the shipping papers that accompany the shipment or on the invoice itself.

Any person who sells a tank must inform the purchaser of the tank of the owner's notification requirements beginning 30 days after the EPA promulgates performance standards for new underground storage tanks. (Under section 9003(e) new tank performance standards must be promulgated no later than February 1987, for tanks containing petroleum or its fractions. For tanks containing "hazardous substances" as defined under CERCLA section 101(14) [except those regulated as hazardous wastes under RCRA Subtitle C], new tank performance standards must be promulgated no later than August 1987.) The Agency believes that a tank seller could meet his obligation under section 9002 by either modifying the sales form or by providing a statement on the invoice describing the notification requirements to be met by the tank owner. A tank seller could also leave a copy of the proposed notification form (or alternative State form) with the purchaser of the tank. The Agency solicits comment from persons who deposit regulated substances into tanks and tank sellers on the kind of guidance that would be helpful to them in communicating the notification requirements to owners of underground storage tanks.

Congress has authorized civil penalties for violations of section 9002. As a means of enforcing the notification requirements, a penalty not to exceed

[2] Owners of Federal facilities are also subject to the notification requirements unless a Presidential exemption is granted as specified in section 9007(b). An installation is Federally owned if the owner is the Federal government, even if it is operated by a private contractor. Required notices must be sent to the appropriate State or local departments or agencies (to be listed in Appendix III to the final rule) in the State where the tanks of such facilities are located.

$10,000 can be assessed for each tank for which notification is not given or for which false information is submitted.

B. To Whom Must Notifications Be Submitted?

Section 9002(b) requires that State Governors designate State or local agencies to receive notifications by May 8, 1985. In January 1985, EPA contacted State Governors requesting that they designate such agencies. A list of the agencies designated to receive notifications will be published in the **Federal Register** at the time of promulgation of the final rule.

EPA believes that section 9002(a) requires owners to notify the States of the existence of their tanks regardless of whether the States have designated an agency or department to receive the notices in accordance with section 9002(b)(1). Therefore, where a State has not designated such an agency, we will publish the name and address of that State's Governor.

C. The Notice Form.

By November 8, 1985, EPA, in consultation with designated State and local officials and after notice and opportunity for public comment, must prescribe the form of notice and the information it must contain. Today, EPA is proposing two forms set forth as Appendices I and II to proposed § 280.3. EPA will require notifiers to use the Agency's forms unless the States develop forms that require, at a minimum, the information required under section 9002. To be certain which form(s) should be used, owners should contact the designated agency. States may submit to EPA their State notification forms for review. The Agency will advise States whether their forms comply with the requirements of section 9002.

EPA has attempted to propose notification forms that are easy to complete and that fulfill the requirements of section 9002. The questions have been formatted to simplify the effort required to complete the form (i.e., in most cases, answers may be provided by checking a box). In this manner, the Agency has attempted to minimize the burden upon all tank owners, the majority of which are small businesses.

D. What Information Must Be Included in the Notice?

As stated earlier, Congress mandated that EPA prescribe the form of notice and the information it contains; however, Congress also provided that the State or local government, not the EPA, receive the notifications. States may either use EPA's forms or they may require use of their own forms if such forms meet the requirements of Subtitle I.

EPA is proposing notification regulations that would codify the requirements designated by section 9002. Two forms are being proposed for use by all owners subject to the section 9002 requirements. Appendix I sets forth the form to be used by owners of tanks in use or that will be brought into use after May 8, 1986. Appendix II sets forth the form to be used by owners of tanks that are no longer operational but remain in the ground.

The following paragraphs provide details concerning the information requirements of today's proposed notification forms. Persons who accurately complete and return the proposed forms or alternative State form(s) by the applicable deadline to the designated State or local agency or department will be in compliance with the requirements of section 9002.

For underground storage tanks in use or that will be brought into use after May 8, 1986, section 9002 requires owners to specify the age, size, type, location, and use of the tank. EPA requires owners to estimate the approximate age of the tank. Because primarily liquids are stored in underground storage tanks, EPA has characterized size as the tank's capacity in gallons. With respect to the type of underground storage tank that is being used or that will be used, EPA has characterized type to mean materials of construction and method of corrosion protection. The most frequently used materials of construction are identified in the proposed form. These include steel and fiberglass reinforced plastic (FRP). Also listed in the proposed forms are several types of corrosion protection systems. The owner is required to specify whether the tank is internally protected with a lining or whether it is unlined. In addition, the owner is required to indicate the kind of external protection system with which the tank is equipped. Is the tank coated or wrapped? Or is it cathodically protected? Other types of protection systems are to be specified by the owner in the "other" block provided.

EPA has characterized location as the tank site. The Agency has characterized "use" to mean what regulated substances the tank contains or will contain.

The proposed forms will require owners to identify which of two categories of substances the tank contains or will contain: chemical substances or petroleum products. Chemical substances refer to those regulated substances that are defined as "hazardous substances" under CERCLA, except those regulated as hazardous waste under RCRA.[3] With respect to storage tanks containing hazardous substances, EPA is requiring the owner to provide the names of such substances and/or the chemical abstracts service (CAS) registry numbers of the specific chemical names which identify the chemical substances in the tanks.

In those cases where an owner is storing a mixture of more than one CERCLA hazardous substance in a tank, EPA is proposing that the owner indicate the CERCLA hazardous substance of greatest quantity in that mixture. EPA solicits comment from the States and the public as to what is the most appropriate indication of stored CERCLA hazardous substance when there is a mixture of chemicals in one tank. Should the Agency require the name of the CERCLA hazardous substance that exhibits the highest degree of toxicity, or is it sufficient to require only the name of the substance of greatest quantity? Or should the Agency require the names of both the CERCLA hazardous substance of the greatest quantity and the CERCLA hazardous substance that is the most toxic in the mixture? For example, in the case of a pesticide product that has a petroleum distillate base, the tank owner would provide the name of the primary solvent in the base as well as the active ingredient (e.g., lindane) that may be the most toxic substance in the mixture. Finally, would it be more appropriate for the Agency to require tank owners to report all the major CERCLA hazardous substances that are known to be present in the mixture, without further testing? The Agency also requests comment on the time and resources that are needed to meet the requirements of the options discussed above.

Petroleum substance refers to any crude oil or fraction thereof that is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute).

In cases where an underground storage tank has been taken out of operation after January 1, 1974 (except those that owners know have been subsequently removed from the ground), section 9002 requires that the owner

[3] A list of CERCLA hazardous substances is available from the EPA [50 *FR* 13456, April 4, 1985]. In addition, the RCRA/Superfund Hotline at (800) 424-9346 (toll free) or (202) 382-3000 in Washington, D.C., can provide answers to questions concerning hazardous substances.

report, to the extent known,[4] the following information: (1) The date the tank was taken out of operation; (2) the age of the tank when it was taken out of operation; (3) the size, type, and location of the tank, and; (4) the type and quantity of any substance remaining in such tank on the date taken out of operation. On the form (set forth as Appendix II), owners must indicate whether such substances are chemical or petroleum, as defined above, and what quantity (in gallons) of such substances has been left in the tank. On the form, owners must also indicate the size, type, and location of their tanks.

The Agency has collaborated closely with a number of States in developing the proposed forms, and has considered alternative notification forms based on those already developed by some States. Some of these forms have extensive notification requirements. For example, the State of California has developed a notification form that requires information on the wall thickness as well as vaulting of the tank. It also requires information on the design of the tank; i.e., whether it is double-walled, single-walled, lined, or wrapped. The tank owner must also designate the material of tank construction (including secondary containment) from among the following choices: carbon steel, stainless steel, fiberglass, polyvinyl chloride, concrete, aluminum, steel clad, and earthen walls.

The California notification form also requires information on the internal lining of the tank such as whether the tank is lined with rubber, glass, or epoxy, or whether the tank has a alkyd or phenolic lining. Concerning external corrosion protection, the California notification form requires the tank owner to designate from among the following choices: polyethylene wrap, vinyl wrap, or cathodic protection.

In addition, the California notification form requires information on associated piping such as whether the piping is above ground. If the piping is underground, information must be provided on the design specifications (i.e., gravity, pressure, suction). This form also requires the owner to specify what kind of leak detection system has been installed. The owner must designate the type of leak detection from among the following choices: visual, stock inventory, tile drain, vapor sniff wells, and sensor instrument. EPA requests comment on the need for this type of information.

The State of Rhode Island has developed a notification form that requires information on abandoned or empty underground storage tanks. For example, the tank owner is required to designate whether the type of tank closure is temporary or permanent. The tank owner is also required to specify whether precision testing has been conducted on the empty tanks; and, if so, provide information on the results. In addition, the form requires that the tank owner specify whether the empty or abandoned tanks will be filled in or removed. EPA requests comment on the need for this type of information.

EPA has also considered developing an alternative form that could require information on installation practices. For example, was the tank backfilled with pea gravel, crushed stone, sand, or another material? The form could also require more detailed, site-specific information that could prove useful to State and local authorities. For example, the owner could be required to provide a description of any leaks or spills that have occurred at the facility. The Agency seeks comment on the need for this type of information.

It should be noted that the proposed forms do not require owners to notify the designated agency more than once. Therefore, the proposed forms do not take into account any changes concerning the status of an owner's underground storage tank. To obtain updated information, States may want to consider modifying the proposed forms to allow for subsequent notifications. The Agency requests comment from the States on this matter.

The Agency rejected the option of requiring more information from tank owners than is expressly required under section 9002. EPA believes that the purpose of section 9002 is to assist States in their efforts to develop and enforce their own authorized programs under Subtitle I. This is evidenced by the fact that the States, not EPA, are the only recipients of the notifications. In view of this purpose, EPA believes that additional information requirements would involve increased time and costs to the regulated community and to the State or local agency processing the information. If a State prefers to request more information, it can provide an addendum to the forms to suit its needs or develop its own form(s). EPA today seeks comment from the States on the applicability of the proposed forms to their needs. In addition, the Agency seeks comment from members of the public who will be required to use the forms.

EPA is developing a guidance document to assist States in the implementation of the notification requirements. This document will be available to States when the final rule is promulgated. The document will include information on a variety of methodologies and public education tools for a State notification program. The Agency seeks comment from States and the public on how EPA can further assist States in communicating to tank owners their notification obligations.

III. General Solicitation of Public Comments

The Agency invites comments on any and all aspects of this proposed regulation, including the issues identified in the Preamble. The Agency specifically requests comment on the format and substance of the proposed notification forms and the instructions that are set forth on the back of each form.

IV. Confidentiality Provisions

Tank owners may be concerned about public disclosure of information reported. Since the information reported in the notification forms will be sent to a designated State or local agency or department, the information will not be subject to Federal public disclosure laws unless EPA obtains the information. If EPA obtains the information, it will be treated in accordance with the requirements of 40 CFR Part 2.

In cases where protection from disclosure is peferred, notifiers should contact the appropriate State office for information on applicable State confidentiality provisions.

V. Other Considerations

A. Benefits of the Proposed Rule

We have stated earlier in this Preamble that section 9002 was included in Subtitle I to provide States with some basic information about underground storage tanks within their jurisdictions. This information could be useful to establish programs aimed at preventing, detecting, and correcting leaks from underground storage tanks. EPA believes the establishment of such practices would reduce incidents of ground-water contamination.

The overall benefit of the proposed rule is to provide States, at a low cost, information about underground storage tanks within their boundaries. For example, States will be able to determine where these tanks are located, who owns them, the types and uses of the tanks, their ages and sizes,

[4] "To the extent known" is interpreted by EPA to mean information that is readily available. Owners of tanks taken out of service, therefore, are not expected to expend extensive time and resources to retrieve the necessary data.

and the substances they contain. This information could lead to State tank inventories that could serve as the basis for future State regulatory and enforcement programs.

States that use the proposed form and develop a system to manage the data will be in a position to better control underground storage tanks. For example, States may want to inspect all tank systems over sole source aquifers, or they may want to inspect all tanks over 5 years old that do not have external protection.

If States use the proposed form, tank owners with operations in several States will have a consistent basis for reporting. The proposed form also provides tank owners with a simple mechanism for complying with the statute.

B. Costs of the Proposed Rule

We estimated the costs to tank owners to meet the notification requirements by multiplying the amount of time required to complete the notification form by an appropriate hourly rate. The amount of time required to complete the form may vary significantly among facilities. For example, a large facility with an extensive filing system is likely to have the data readily available. On the other hand, an owner who recently purchased a small operation may find it very difficult to track down the information necessary to complete the form. This may be particularly true for tanks that are no longer in service. For facilities with data readily available, only minimal time should be required to complete the form. For those facilities where data are not readily available, we assumed that owners of tanks taken out of service would indicate on the notification form that the information is unknown rather than expend extensive time and resources to retrieve the necessary data (e.g., contact all previous owners to determine the age of tanks, construction materials, etc.).

We estimate that the amount of time required per average facility for completion of the notification form is 30 minutes. This assumes that an average facility has three tanks and takes into account the following factors: (1) The time to read the instructions on the form and to delegate responsibility for completing the form; (2) gather the appropriate data and complete the form; and (3) review the completed form and certify its accuracy.

To estimate the costs incurred by large facilities which have more than three tanks, we assumed that the number of tanks at large facilities could range from five to as many as 100 tanks. The time required to complete the form would range from nearly an hour for a facility with five tanks to as much as eight hours for a facility with 100 tanks. The number of facilities with over 10 tanks is likely to be very small; we therefore assumed that the typical large facility has 10 tanks requiring 1½ hours to complete the notification form.

We used an average hourly rate of $15 based on an hourly wage estimate of approximately $10 per hour for gasoline service station supervisors and including a 0.5 overhead factor.

To estimate the cost to owners of an average underground storage tank facility to complete the notification form, we multiplied the amount of time required to complete the form (0.5) by the average applicable hourly rate ($15). We rounded the resulting estimate of $7.50 per facility upwards to $10 per facility to account for the higher labor rate associated with managerial review time. For owners of larger facilities we similarly rounded the estimate of $22.50 (1.5 times $15/hour) to $30 per facility to include the proportionally higher costs of managerial review.

Based on industry and State estimates we have assumed that there are approximately 1.2 million underground storage tank facilities for which notification must be filed. Of these 1.2 million facilities, we estimated that 1.1 million of them (about 90 percent) are small facilities with an average of three tanks per facility. Moreover, of these 1.1 million facilities, we estimated that 20,000 of them are nonoperating facilities with abandoned tanks. The remaining 0.1 million facilities (about 10 percent) are considered to be large facilities, typically composed of about 10 tanks per facility.

We estimated the national costs of the first-time notification requirement for tank owners by multiplying the unit costs per facility by the total number of facilities with underground tanks currently in use or taken out of service since January 1, 1974. Assuming average facility costs of $10 for small and abandoned facilities and $30 for large facilities, the total estimated national costs to tank owners are about $14 million.

In addition to their first-time costs, tank owners must notify the designated State or local agency within 30 days of bringing new or replacement underground storage tanks into use. Assuming 2,000 facilities purchase one replacement tank per year and 12,700 new facilities purchase three new tanks per year, we estimated the total annual notification costs to be $150,000.

The costs to distributors of regulated substances and tank sellers depend upon the method used to inform tank owners of their notification obligations. We estimated the total national costs for distributors by multiplying the unit costs of developing a standard notice by the total number of distributors. Assuming there are approximately 27,000 product distributors and assuming unit costs of between $50 and $100 per distributor, the estimated national costs would be between $1.4 million and $2.7 million. This would be a one-time cost for distributors with annual costs incurred only by new entrants into the distibution network.

To estimate the total national costs for tank sellers, we similarly multiplied the unit costs of developing a standard notice by the total number of tank manufacturers. Assuming unit costs ranging from $50 to $100 per tank seller and a population of slightly over 200 tank manufacturers, the estimated national costs would range from about $10,000 to $20,000.

In summary, we estimated the total first-time national costs for notification requirements to be $14 million for tank owners, $1.4 to $2.7 million for distributors of regulated substances, and $10,000 to $20,000 for tank sellers. Therefore, we estimate the total national one-time costs to be between $15 and $17 million. We estimate the annual costs to tank owners for subsequent notifications to be $150,000 nationwide.

Based on the costs presented here, EPA does not expect the notification requirements to impose a significant economic burden on members of the affected population. (See Sections VI and VIII for additional information on the economic impact of the proposed rule.)

VI. Compliance With Executive Order 12291

Executive Order 12291 [46 FR 13193, February 9, 1981] requires that a regulatory agency determine whether a new regulation will be 'major' and, if so, that a Regulatory Impact Analysis be conducted. A major rule is defined as a regulation which is likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, and local Government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Since the proposed rule does not result in any of the above effects, it does not meet the definition of a major regulation. Accordingly, the Agency is not conducting a Regulatory Impact Analysis.

The proposed rule has been submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

VII. Paperwork Reduction Act

Pursuant to section 3504(h) of the Paperwork Reduction Act of 1980, the reporting and recordkeeping provisions of today's proposed rule have been submitted for OMB approval. When EPA promulgates the final rule, EPA will respond to comments by OMB and the public regarding the reporting and recordkeeping provisions of the rule.

VIII. Regulatory Flexibility Act

The Regulatory Flexibility Act requires that Federal agencies prepare regulatory flexibility analyses assessing the impacts of proposed rules on entities such as small businesses, small organizations, and small governmental jurisdictions. Such an analysis is not required, however, when the head of an Agency certifies that a proposed rule will not have a significant economic impact on a substantial number of small entities.

EPA considers the information required by this rule to be the minimum necessary to effectively administer the notification program. Since most of the requested information will be readily available, it is anticipated that little time will be needed to prepare the notification response. Any additional economic impact on the public resulting from implementation of this regulation is expected to be negligible since notifcation is required only once and is primarily an administrative procedure. Accordingly, EPA certifies that these proposed rules, if promulgated, would not have a significant impact on a substantial number of small entities.

IX. List of Subjects in 40 CFR Part 280

Administrative practice and procedure, Underground storage tanks, Hazardous materials, Water pollution control, Confidential business information.

Dated: May 20, 1985.

Lee M. Thomas,

Administrator.

For the reasons set out in the preamble, Title 40 of the Code of Federal Regulations is proposed to be amended by adding a new Part 280 to read as follows:

PART 280—UNDERGROUND STORAGE TANK REGULATIONS

Sec.

280.1 Definitions.

280.2 [Reserved]

280.3 Notification requirements.

Authority: Secs. 9001, 9002, and 9006 of the Resource Conservation and Recovery Act (RCRA) of 1976 as amended (42 U.S.C. 6991, 6992, and 6996).

§ 280.1 Definitions.

"Nonoperational storage tank" means any underground storage tank in which regulated substances will not be deposited or from which regulated substances will not be dispensed after November 8, 1984.

"Operator" means any person in control of, or having responsibility for, the daily operation of the underground storage tank.

"Owner" means (a) in the case of an underground storage tank in use on November 8, 1984, or brought into use after that date, any person who owns an underground storage tank used for the storage, use, or dispensing of regulated substances, and (b) in the case of any underground storage tank in use before November 8, 1984, but no longer in use on that date, any person who owned such tank immediately before discontinuation of its use.

§ 280.2 [Reserved]

§ 280.3 Notification requirements.

(a) On or before May 8, 1986, each owner of an underground storage tank currently in use must submit, in the form prescribed in Appendix I, a notice of the existence of such tank to the State or local agency or department designated in Appendix III to receive such notices.

(b) On or before May 8, 1986, each owner of an underground storage tank taken out of operation after January 1, 1974 (unless the owner knows that such tank has been permanently removed from the ground), must submit, in the form prescribed in Appendix II, a notice of the existence of such tank to the State or local agency or department designated in Appendix III to receive such notice.

(c) Any owner that brings an underground storage tank into use after May 8, 1986, must, within 30 days of bringing such tank into use, submit, in the form prescribed in Appendix I, a notice of the existence of such tank to the State or local agency or department designated in Appendix III to receive such notices.

(d) In States where State law requires owners to use forms that differ from those set forth in Appendices I and II to fulfill the requirements of this section, the State forms may be submitted in lieu of the forms set forth in Appendices I and II. If a State requires that its form be used in lieu of the form presented in this regulation, such form must meet the requirements of Section 9002.

(e) Owners required to submit notices under paragraphs (a)–(c) of this Section must provide notices to the appropriate agencies or departments identified in Appendix III for each tank they own. Owners may provide notice for several tanks using one notification form but owners who own more than one place of operation within a given State must file a separate notification form for each separate place of operation.

(f) Notices required to be submitted under paragraphs (a)–(c) of this Section must provide all of the information indicated on the prescribed form (or appropriate State form) for each tank for which notice must be given.

(g) Beginning 30 days after the promulgation of this rule, and for 18 months thereafter, any person who deposits regulated substances in an underground storage tank must make reasonable efforts to notify the owner or operator of such tank of the owner's obligations under paragraphs (a)–(c) of this Section.

(h) Beginning 30 days after the Administrator issues new tank performance standards pursuant to RCRA Section 9003(e), any person who sells a tank intended to be used as an underground storage tank must notify the purchaser of such tank of the owner's notification obligations under paragraphs (a)–(c) of this Section.

(i) Paragraphs (a)–(c) of this Section do not apply to tanks for which notice was given pursuant to Section 103(c) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980.

BILLING CODE 6560-50-M

United States Environmental Protection Agency
Washington, DC 20460

EPA

Notification for Underground Storage Tanks in Use

Form Approved
OMB No. xxxx-xxxx
Approval expires xx-xx-xx

1. Name and address of the facility	2. Business mailing address of facility, if different from location address	3. Owner of tank *(name, business) address, and phone number)*	4. Contact person for the facility *(Name and phone number)*

5. Type of owner *(Mark "X" in appropriate box)*
☐ Non-Federal ☐ Federal *(Give GSA #)*

6. For State Use Only

Complete the following section(s) to the best of your knowledge using the examples provided as guidance. Check appropriate boxes and fill in blanks where applicable. If you need more space, photocopy this page or use a continuation sheet.

7. Tanks currently in use or that will be brought into use

a. Tank No.	b. Age (yrs) 0-5	5-10	11-15	16-20	21-25	25+	c. Total capacity (gal)	d. Material of construction: Steel	Fiberglass reinforced plastic	Other (specify)	e. Internal protection: Lined	Unlined	f. External protection: Coated	Wrapped	Cathodic protection	Other (specify)	g. Substance type: Hazardous substance name and/or Chemical Abstract Service (CAS) # if known	Petroleum products: Gasoline	Diesel	Kerosene	Other (specify)
Example	X						10,000		X			X								X	
Example		X					8,000	X				X			X		Trichloroethylene CAS #79016				
1																					
2																					
3																					
4																					
5																					
6																					
7																					
8																					

8. Certification

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete.

a. Name and Official Title of owner or owner's authorized representative *(Type or print)*

b. Signature

c. Date signed

EPA Form 7530-1 (xx-85) This information is required by Section 9002 of the Resource Conservation and Recovery Act, as amended.

Instructions for Filing Notification for Underground Storage Tanks in Use

General Instructions

Complete this form only if you own an underground storage tank that is currently in use or that will be brought into use. For underground storage tanks taken out of operation permanently after January 1, 1974, but still in the ground, even if empty, use EPA Form 7530-2.

After reading these instructions, if you are unsure whether this applies to you, or if you have any questions, call the RCRA/Superfund Hotline, (800) 424-9346.

Who must notify

Any "owner" of an underground storage tank.

Definition of underground storage tank

Any one or a combination of tanks (including underground pipes connected thereto) which is used to contain an accumulation of regulated substances, and the volume of which (including the volume of the underground pipes connected thereto) is 10 percent or more beneath the surface of the ground. Excluded are:

1. farm or residential tanks of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;

2. tanks used for storing heating oil for consumptive use on the premises where stored;

3. septic tanks;

4. pipeline facilities (including gathering lines) regulated under the Natural Gas Pipeline Safety Act of 1968, or the Hazardous Liquid Pipeline Safety Act of 1979, or which is an intrastate pipeline facility regulated under State laws;

5. surface impoundments, pits, ponds, or lagoons;

6. storm water or waste water collection systems;

7. flow-through process tanks;

8. liquid traps or associated gathering lines directly related to oil or gas production and gathering operations;

9. storage tanks situated in an underground area (such as a basement, cellar, mineworking, drift, shaft, or tunnel) if the storage tank is situated upon or above the surface of the floor.

Definition of regulated substance

Any substance defined in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (but not including any substance regulated as a hazardous waste under Subtitle C) and petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Farenheit and 14.7 pounds per square inch absolute). If you do not know whether your tank contains CERCLA hazardous substances, call the RCRA/Superfund Hotline, (800) 424-9346.

Definition of Owner

(A) In the case of an underground storage tank in use on November 8, 1984, or brought into use after that date, any person who owns an underground storage tank used for the storage, use, or dispensing of regulated substances, and

(B) In the case of any underground storage tank in use before November 8, 1984, but no longer in use on that date, any person who owned such tank immediately before the discontinuation of its use.

Where to notify

[address to be filled in by State]

When to notify

1. For any underground storage tank currently in use, you must notify by May 8, 1986.

2. For any underground storage tank brought into use after May 8, 1986, you must notify within 30 days of bringing the tank into use.

3. For any underground storage tank taken out of use permanently after January 1, 1974 (but still in the ground), you must notify by May 8, 1986.

Penalties

This information is required by Section 9002 of the Resource Conservation and Recovery Act as amended. Any owner who knowingly fails to notify or submits false information shall be subject to a civil penalty not to exceed $10,000 for each tank for which notification is not given or false information is submitted.

Specific Instructions

Type or print in ink all items except 8b "Signature." Complete the following sections to the best of your knowledge using the examples provided as guidance. Enter "unknown" whenever you do not know the answer.

1. Name and Address of the Facility. Enter the name and the address of the facility where the tank or tanks are located. The address should include the name of the nearest cross street. The address should also include the name of the county in which the facility is located.

2. Business Mailing Address. Enter the name and mailing address of the facility if different from the location address.

3. Owner of Tank. Enter the name, address, and telephone number of the current tank owner.

4. Contact Person. Enter the name and business telephone number of the person responsible for operation of the tank or tanks.

5. Type of Owner. Mark "x" in the appropriate box to indicate whether the facility is owned by a Federal Agency. An installation is federally owned if the owner is the Federal Government, even if it is operated by a private contractor. Enter the GSA identification number in the space provided if the facility is Federally owned.

6. For State Use Only. Do not write in this block.

7. Tanks Currently in Use or That Will Be Brought into Use After May 8, 1986.

a. Tank No. Self explanatory.

b. Age. Mark "x" in the appropriate box to indicate the approximate age of the tank.

c. Estimated Total Capacity. Enter the estimated capacity of the tank in gallons.

d. Material of Construction. Mark "x" in the appropriate box to indicate the type of construction of the tank. If the tank is neither constructed of steel nor fiberglass reinforced plastic, then enter the type of construction material in the "other" block.

e. Internal Protection. Mark "x" in the appropriate box to indicate whether the tank is internally protected with a lining or whether it is unlined.

f. External Protection. Mark "x" in the appropriate box to indicate whether the tank is equipped with cathodic protection or if the tank is coated or wrapped. Enter other types of external protection, such as secondary containment (e.g., double wall or vault) in the "other" block.

g. Substance Type. Indicate which type of "regulated substance" the tank is storing.

° If the tank is storing a hazardous substance, enter the name of the chemical. Also, if known, provide the Chemical Abstracts Service (CAS) registry number. When a mixture of several hazardous substances is stored in one tank, enter the name of the substance of greatest quantity.

° If the tank is storing petroleum products, mark "x" in the appropriate box to indicate the type of petroleum product that is stored. If your tank is storing petroleum products *other* than gasoline, diesel, or kerosene, then enter the name of the product in the "other" block.

8. Certification. This certification must be signed by the owner or an authorized representative of the facility. An authorized representative is a person responsible for the overall operation of the facility, as for example, a plant manager or superintendent, or a person of equivalent responsibility.

United States Environmental Protection Agency
Washington, DC 20460

EPA

Notification for Underground Storage Tanks No Longer in Operation

Tanks taken out of operation after January 1, 1974, but still in the ground.

Form Approved
OMB No. xxxx-xxxx
Approval expires xx-xx-xx

1. Name and address of the facility	2. Business mailing address of facility, if different from location address	3. Owner of tank (name, business address, and phone number)	4. Contact person for the facility (Name and phone number)

5. Type of owner (Mark "X" in appropriate box)	6. For State Use Only
☐ Non-Federal ☐ Federal (Give GSA #)	

Complete the following section(s) to the best of your knowledge using the examples provided as guidance. Check appropriate boxes and fill in blanks where applicable. If you need more space, photocopy this page or use a continuation sheet.

7. Tanks taken out of use after January 1, 1974, but still in the ground.

a. Tank No.	b. Date of last use		c. Age when last used (yrs.)						d. Total capacity (gal)	e. Material of construction			f. Internal protection		g. External protection				h. Substance left stored, if any						
	Month	Year	0-5	6-10	11-15	16-20	21-25	26+		Steel	Fiberglass reinforced plastic	Other (specify)	Lined	Unlined	Coated	Wrapped	Cathodic protection	Other (specify)	Hazardous substance name and/or Chemical Abstract Service (CAS) # if known	Petroleum products				Estimated quantity (gal)
																				Gasoline	Diesel	Kerosene	Other (specify)	
Example	6	75			X				8,000	X				X	X					X				120
1																								
2																								
3																								
4																								
5																								
6																								
7																								
8																								
9																								

8. Certification

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete.

a. Name and Official Title of owner or owner's authorized representative (Type or print)	
b. Signature	c. Date signed

EPA Form 7530-2 (xx-85) This information is required by Section 9002 of the Resource Conservation and Recovery Act, as amended.

Instructions for Filing Notification for Underground Storage Tanks No Longer in Operation

General Instructions

Complete this form only if you own an underground storage tank that was taken out of operation after January 1, 1974, but still in the ground, even if "empty." For underground storage tanks currently in use or to be brought into use, use EPA Form 7530-1.

After reading these instructions, if you are unsure whether this applies to you, or if you have any questions, call the RCRA/Superfund Hotline, (800) 424-9346.

Who must notify

Any "owner" of an underground storage tank.

Definition of underground storage tank

Any one or a combination of tanks (including underground pipes connected thereto) which is used to contain an accumulation of regulated substances, and the volume of which (including the volume of the underground pipes connected thereto) is 10 percent or more beneath the surface of the ground. Excluded are:

1. farm or residential tanks of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;

2. tanks used for storing heating oil for consumptive use on the premises where stored;

3. septic tanks;

4. pipeline facilities (including gathering lines) regulated under the Natural Gas Pipeline Safety Act of 1968, or the Hazardous Liquid Pipeline Safety Act of 1979, or which is an intrastate pipeline facility regulated under State laws;

5. surface impoundments, pits, ponds, or lagoons;

6. storm water or waste water collection systems;

7. flow-through process tanks;

8. liquid traps or associated gathering lines directly related to oil or gas production and gathering operations;

9. storage tanks situated in an underground area (such as a basement, cellar, mineworking, drift, shaft, or tunnel) if the storage tank is situated upon or above the surface of the floor.

Definition of regulated substance

Any substance defined in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (but not including any substance regulated as a hazardous waste under Subtitle C) and petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute). If you do not know whether your tank contains CERCLA hazardous substances, call the RCRA/Superfund Hotline, (800) 424-9346.

Definition of Owner

(A) In the case of an underground storage tank in use on November 8, 1984, or brought into use after that date, any person who owns an underground storage tank used for the storage, use, or dispensing of regulated substances; and

(B) In the case of any underground storage tank in use before November 8, 1984, but no longer in use on the date of enactment of such Amendments, any person who owned such tank immediately before the discontinuation of its use.

Where to notify

[address to be filled in by State]

When to notify

1. For any underground storage tank currently in use, you must notify by May 8, 1986.

2. For any underground storage tank brought into use after May 8, 1986, you must notify within 30 days of bringing the tank into use.

3. For any underground storage tank taken out of use permanently after January 1, 1974 (but still in the ground), you must notify by May 8, 1986.

Penalties

This information is required by Section 9002 of the Resource Conservation and Recovery Act as amended. Any owner who knowingly fails to notify or submits false information shall be subject to a civil penalty not to exceed $10,000 for each tank for which notification is not given or false information is submitted.

Specific Instructions

Type or print in ink all items except 8b "Signature." Complete the following sections to the best of your knowledge using the examples provided as guidance. Enter "unknown" whenever you do not know the answer.

1. Name and Address of the Facility. Enter the name and the address of the facility where the tank or tanks are located. The address should include the name of the nearest cross street. The address should also include the name of the county in which the facility is located.

2. Business Mailing Address. Enter the name and mailing address of the facility if different from the location address.

3. Owner of Tank. Enter the name, address, and telephone number of the tank owner at the time the tank was taken out of service.

4. Contact Person. Enter the name and business telephone number of the person responsible for operation of the tank or tanks.

5. Type of Owner. Mark "x" in the appropriate box to indicate whether the facility is owned by a Federal Agency. An installation is federally owned if the owner is the Federal Government, even if it is operated by a private contractor. Enter the GSA identification number in the space provided if the facility is Federally owned.

6. For State Use Only. Do not write in this block.

7. Tanks Taken Out of Operation After January 1, 1974 but Still in the Ground.

a. Tank No. Self explanatory.

b. Date of last use. Enter the date (by month and year) when the tank was taken out of operation.

c. Age When Last Used. Mark "x" in the appropriate box to indicate the age of the tank when it was taken out of service.

d. Estimated Total Capacity. Enter the estimated capacity of the tank in gallons.

e. Material of Construction. Mark "x" in the appropriate box to indicate the type of construction of the tank. If the tank is neither constructed of steel nor fiberglass reinforced plastic, then enter the type of construction material in the "other" block.

f. Internal Protection. Mark "x" in the appropriate box to indicate whether the tank is internally protected with a lining or whether it is unlined.

g. External Protection. Mark "x" in the appropriate box to indicate whether the tank is equipped with cathodic protection of if the tank is coated or wrapped. Enter other types of external protection such as secondary containment (e.g., double wall or vault) in the "other" block.

h. Substance Left Stored. Indicate which type of "regulated substance" has been left stored, if any, in the tank after it was taken out of operation.

- If the tank is storing a hazardous substance, enter the name of the chemical. Also, if known, provide the Chemical Abstracts Service (CAS) registry number. When a mixture of several hazardous substances is stored in one tank, enter the name of the substance of greatest quantity.
- If the tank is storing petroleum products, mark "x" in the appropriate box to indicate the type of petroleum product that is stored. If your tank is storing petroleum products *other* than gasoline, diesel, and kerosene then enter the name of the product in the "other" block.

Enter the estimated quantity of regulated substance left stored, if any, in the tank on the date it was taken out of operation.

8. Certification. This certification must be signed by the owner or an authorized representative of the facility. An authorized representative is a person responsible for the overall operation of the facility, as for example, a plant manager or superintendent, or a person of equivalent responsibility.

[FR Doc. 85-12705 Filed 5-24-85; 8:45 am]

BILLING CODE 6560-50-M

federal register

Tuesday
May 28, 1985

Part IX

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Interior Population of the Least Tern to be Endangered; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Interior Population of the Least Tern Determined To Be Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines endangered status for the interior population of the least tern (*Sterna antillarum*), a small bird. Formerly well distributed in the Mississippi basin, the tern has been eliminated from most stretches of the Mississippi River and its tributaries. Many nesting islands in rivers have been permanently inundated or destroyed by reservoirs and channelization projects. Alteration of natural river dynamics has caused unfavorable vegetational succession on many remaining islands, curtailing their use as nesting sites by terns. Recreational use of sandbars is a major threat to the reproductive success of the tern. The annual spring floods of the watershed are often delayed past the onset of normal breeding, and many islands are not exposed as suitable sites in time for nesting. This final rule will provide the protection of the Endangered Species Act to this species. The Service will initiate recovery efforts for the interior least tern population.

DATE: The effective date of this rule is June 27, 1985.

ADDRESS: The complete file for this rule is available for inspection, by appointment, during business hours (7:00 a.m.—4:30 p.m.) at the Endangered Species Division, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111 (612/725–3276 or FTS 725–3276).

FOR FURTHER INFORMATION CONTACT: Mr. James M. Engel, Endangered Species Division (see **ADDRESSES** section), (612/725–3276 or FTS 725–3276).

SUPPLEMENTARY INFORMATION:

Background

The interior population of the least tern was first described as a race (*Sterna albifrons*) of the Old World little tern (*Sterna albifrons*) (Burleigh and Lowery, 1942). Two other described New World races were the eastern or coastal least tern (*Sterna albifrons antillarum*) and the California least tern (*Sterna albifrons browni*). As a result of recent studies on vocalizations and behavior of the terns in the Old and New Worlds, the American Ornithologists' Union (1983) now treats the New World least tern population as distinct species, *Sterna antillarum*. The old world species is called the little tern, *Sterna albifrons*. Subspecies of New World least terns recognized by the American Ornithologists' Union (1957) were the interior least tern (now *Sterna antillarum athalassos*), the eastern or coastal least tern (now *Sterna antillarum antillarum*), and the California least tern (now *Sterna antillarum browni*).

Massey (1976) reported no consistent morphological, behavioral, or vocal differences between *S. antillarum antillarum* and *S. antillarum browni*. In Texas where *S. antillarum antillarum* and *S. antillarum athalassos* are sympatric, the differentiation of specimens of the two subspecies is not possible and the present taxonomy is probably tentative (Thompson, 1981). Because of the taxonomic uncertainty of least tern subspecies in eastern North America, the Service decides not to specify the subspecies in this final rule. Instead the Service designates as endangered the population of least terns (hereinafter referred to as interior least tern) occurring in the interior of the United States. This designation is reflected in the rule promulgation at the end of this document.

The interior least tern historically bred along the Colorado (in Texas), Red, Rio Grande, Arkansas, Missouri, Ohio, and Mississippi Rivers systems from Montana southward through South Dakota, Nebraska, eastern Colorado, Iowa, Kansas, Missouri, Illinois, Indiana, and Kentucky to eastern New Mexico, Oklahoma, Arkansas, Tennessee, central Texas, central Louisiana, and central Mississippi (American Ornithologists' Union, 1957). The actual wintering area for this population is unknown. However, least terns of unknown populations or subspecies are found during the winter along the Central American coast and the northern coast of South America from Venezuela to northeastern Brazil.

The eastern least tern breeds along the Atlantic coast from Massachusetts to Florida, along the Gulf coast from Florida to Texas, and in the Bahamas and Caribbean Islands. The California least tern, which has been listed as an endangered species since 1970 (32 FR 16047), breeds along the Pacific coast from central California to Baja California.

Least terns are the smallest members of the subfamily Sterninae, measuring 20–22 cm long with a 50 cm wingspread. Sexes are alike, characterized in the breeding plumage by a black crown, white forehead, grayish back and dorsal wing surfaces, snowy white undersurfaces, orange legs, and a black-tipped yellow bill. Immature birds have darker plumage, a dark bill, and dark eye stripes on their white heads.

Hardy (1957) presents the results of the first substantial field study of the interior least tern. His observations were mostly made on the lower Ohio River. Other research has been conducted in Nebraska, Kansas, Oklahoma, and Illinois (Grover and Knopf, 1982; Anderson, 1983; Faanes, 1983; Schulenberg and Ptacek, 1984). Ducey (1981) provides a current and comprehensive summary of available published and unpublished information on the interior least tern. The tern exhibits a localized pattern of distribution, and its breeding biology generally centers around three ecological factors.

These include: (1) The presence of bare or nearly bare alluvial islands or sandbars, (2) the existence of favorable water levels during the nesting seasons, and (3) the availability of food.

Under natural river conditions, islands are created and destroyed by the river's erosion and deposition processes. Periodic inundation maintains some islands in the barren or sparsely vegetated condition required by terns for nesting. Although most nesting is in rivers, the interior least tern also nests on the barren flats of saline lakes and ponds such as on the Salt Plains National Wildlife Refuge, Oklahoma.

The nest is a simple unlined scrape usually containing three brown spotted buffy eggs. Breeding colonies or terneries are usually small (up to 20 nests) with nests spaced far apart. However, colonies of 75 nests have been reported on the Mississippi River. Egg-laying and incubation occur from late May to early August, depending on the geographical location and availability of habitat. After a 20-day incubation period the chicks hatch and will fledge in another 20 days. Little is known about the tern's specific food preferences, but small fish such as minnows constitute its prey.

The Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), as amended, requires determination of whether species of wildlife and plants are endangered or threatened, based on the best available scientific and commercial data. The Service was originally petitioned in 1975 by the Oklahoma Ornithological Society to list the interior least tern as an endangered species. The Service indicated at that time its general

intent to propose the species for listing, once sufficient data were available. On December 30, 1982, the Service published a notice of review in the **Federal Register** (47 FR 58454) identifying vertebrate taxa, native to the U.S. being considered for addition to the List of Endangered and Threatened Wildlife. The notice included the interior least tern as a category 2 species (i.e., a species still needing some data before a proposal could be made). Since December 30, 1982, the Service has reviewed further data on the status of the tern in Illinois, Iowa, Kansas, Nebraska, North Dakota, and Oklahoma.

On May 29, 1984, the Service published a proposed rule in the **Federal Register** (49 FR 22444) advising that sufficient information was now on file to support a determination that the interior least tern is an endangered species pursuant to the Endangered Species Act of 1973, as amended. The proposal solicited comments from any interested parties concerning threats to this species, its distribution and range, whether or not critical habitat should be designated, and activities which might impact the species.

Summary of Comments and Recommendations

In the May 29, 1984, proposal all interested parties were requested to submit information on the status of the interior least tern that might contribute to the development of a final rule. Subsequently, letters were sent to appropriate state resource agencies in the tern's historic range of Arkansas, Colorado, Iowa, Illinois, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Tennessee, and Texas, and to the U.S. Army Corps of Engineers, other appropriate Federal agencies, county governments and other interested parties notifying them of the proposal and soliciting their comments and suggestions. Newspaper notices inviting general public comment were published in 17 newspapers within the breeding range of the interior least tern.

Seventy-two comments were received by mail during the public comment period, which was extended until September 25, 1984, in order to accommodate a public hearing. Cook and Kopf, P.C., of Lexington, Nebraska, representing the Central Platte Natural Resources District, requested a public hearing, ". . . to supply and solicit information regarding the designation of the interior least tern as endangered relative to the alleged use by the interior least tern of the Central Platte Region of the Platte River." Notice of public hearing and reopening of the comment period was published in the **Federal Register** on August 22, 1984 (49 FR 33296). A correction to the location of that hearing was published on September 5, 1984 (49 FR 35031).

The public hearing was held on September 11, 1984, at the Peter Kiewit Conference Center, Omaha, Nebraska. Forty-five people attended the hearing. Twelve people presented oral comments. Six of them also submitted written comments. The hearing centered largely on the decline and numbers of the interior least tern and on the ecology, status, and management of the tern in Nebraska, especially on the Platte River. The 12 public hearing comments and the 72 comments received by mail are summarized below. Most comments supported Federal listing of the interior least tern, with the exception of those from the Central Platte Natural Resources District, Nebraska Water Resources Association, other Nebraska water organizations, Denver Water Department, and Denver Metropolitan Water Providers, although some comments could be rated "neutral" in respect to support of the proposal.

The wildlife or related resource agencies of Arkansas, Iowa, Illinois, Kentucky, Mississippi, Missouri, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Tennessee, and Texas endorsed Federal listing of the interior least tern. Senator Nancy Landon Kassebaum of Kansas wrote that the Kansas Fish and Game Commission would not oppose the listing. Remaining States in the tern's historic range did not respond.

The Central Platte Natural Resources District, Denver Water Department, and Nebraska Water Resources Association criticized the adequacy of the data on the numbers and decline of the interior least tern. They viewed the 1975 survey of the tern by Downing (1980) as inadequate and cursory and urged the Service to monitor population trends on a regular basis. They suggested that there has been no decline of terns and that the population may be increasing. The Denver Water Department examined the public comments received by the Service in response to the proposed rule, and commented that there are over 1,700 terns instead of the 1,250 reported by Downing (1980) and referenced by the Service in the proposed rule.

Service response: The Service references Downing's 1975 survey (published in 1980) in the May 29, 1984, proposed rule because it is a concise report presenting the still valid fact that numbers of interior least terns are very low. The 1975 survey was the basis of the Oklahoma Ornithological Society's 1975 petition to list the interior least tern as endangered. The Sevice, however, did not immediately propose listing of the tern, deciding instead to further evaluate the status of the tern. Since 1975, many States and individuals have conducted a variety of surveys throughout the tern's breeding range. These studies and surveys (some of the results submitted in response to the proposed rule), while indicating a similar tern population in the areas surveyed by Downing in 1975 but a higher population (1,400–1,800 terns) throughout the entire tern's breeding range, support Downing's conclusion of low numbers of terns and continued threats to the bird's habitat and breeding success.

The Service recognizes the difficulty in assessing the exact population status of species with widely scattered individuals, such as terns (Thompson, 1982). Moveover, as stated in the May 29, 1984, proposed rule, historical trends of the interior least tern population are poorly known. Reliable estimates of original numbers are generally not available. However, historical records indicate that the interior least tern once bred over a much larger area and in far greater densities of colonies than it does today (Ducey, 1981; Hardy, 1957). The best available information indicates that the interior least tern population is low, reproductive success is low in many areas, and the tern's remnant breeding habitat is threatened with modification, destruction, or curtailment. The Service is obliged by the Endangered Species Act to make listing decisions solely on the basis of the best scientific and commercial data available on the species in question.

By way of comparison, the California least tern was listed as endangered in 1970 when its population stood at 600 pairs (more than 1,500 individuals when non-breeding birds are included). That subspecies now numbers over 2,400 individuals but is still threatened with the loss of habitat.

In Louisiana, the interior least tern was a common breeding bird throughout the Mississippi and Red River valleys. It is now absent from the State. In Arkansas, the interior least tern no longer breeds on the Ouachita and White Rivers and is nearly absent on the Arkansas River, where only 30 terns have been recently censused (Arkansas Natural Heritage Commission, unpub. data, 1984). In Mississippi, the tern commonly bred on the Mississippi River

but is now absent. Ganier (1930) believed the tern to have colonies every 10–15 miles along the Mississippi River. Today, there are about 350–450 terns, concentrated at only a few sites from Osceola, Arkansas, to Cairo, Illinois (Arkansas Natural Heritage Commission, Missouri and Tennessee Departments of Conservation, Kentucky Department of Fish and Wildlife Resources, U.S. Army Corps of Engineers, unpub. data, 1984).

The interior least tern formerly bred along the Ohio River from its confluence with the Mississippi River to along the Indiana-Kentucky boundary. In 1983 about 10 terns frequented the lower Ohio River; none were present between Indiana and Kentucky (Illinois Department of Conservation, unpub. data, 1984).

The interior least tern was formerly common on the Mississippi River from Cairo, Illinois, to Iowa. It bred on the Des Moines River and at many locations in central and eastern Iowa. The tern now occurs only near the southern tip of Illinois, where 30 birds were recently censused (Illinois Department of Conservation, unpub. data, 1984, Thompson and Landin, 1978).

The interior least tern was formerly a common breeder on the Missouri River and many of its tributaries from St. Louis, Missouri, to Montana. Lewis and Clark frequently observed the tern along the length of the Missouri River and described the species in detail (Burroughs, 1961). Near the mouth of the Platte River they remarked that the tern is "a native of this country and probably a constant resident." The interior least tern is now entirely absent as a breeding bird on the Missouri River from St. Louis to Sioux City, Iowa. It disappeared along the Iowa-Nebraska boundary (Missouri River) over the past 35 years (Ducey, 1981; Hardy, 1957). On the Missouri River north of Sioux City, Iowa, the interior least tern population numbers 100–200 birds between Yankton, South Dakota, and Ponca, Nebraska (Nebraska Game and Parks Commission, unpub. data, 1980–1984). Because the remainder of the Missouri River in North and South Dakota is largely a reservoir where nesting habitat has almost completely disappeared since 1950, the tern is now a rare breeding bird. However, on the remaining 90-mile natural segment of the Missouri River in North Dakota, from Garrison Dam to the headwaters of the Oahe Reservoir, 90–130 terns have bred on sandbars in recent years (North Dakota Parks and Recreation Department, unpub. data, 1984). The Cheyenne River, a tributary of the Missouri River in South Dakota, harbors about 30-70 terns (Ducey, 1981; A. Chappelle, pers. comm., 1984). Small numbers of terns may be scattered along the Oahe Reservoir. The tern is absent from Montana, although it historically occurred there (Coues, 1874).

On the Platte River, Nebraska, the interior least tern numbers about 160–240 birds (Nebraska Game and Parks Commission, unpub. data, 1980–1984). Their distribution on the Platte formerly included western Nebraska. Today, the tern is found only in the Central and Lower Platte River regions. Changes in nesting distribution and loss of historic nesting sites on the Platte River are detailed by the Nebraska Game and Parks Commission (1984, 1985). About 100 terns occur on the Niobrara River, Nebraska (Wingfield, 1982).

In Kansas, recent research on the interior least tern indicated low numbers (100 birds), low reproductive success, and continued threats to the tern's breeding habitat (Schulenberg and Ptacek, 1984, Roger L. Boyd, pers. comm., 1984). The tern no longer breeds along the river systems in the northern part of the State. It is currently only found on the Cimarron River, in Cheyenne Bottoms Wildlife Management Area, and in the Quivira National Wildlife Refuge.

In Oklahoma, 180–300 interior least terns occur on the Salt Plains National Wildlife Refuge (Grover and Knopf, 1982; L. Hill, pers. comm., 1984). Another 100 terns breed on the Cimarron River and Lake Optima in the Oklahoma panhandle (Oklahoma Department of Wildlife Conservation, unpub. data, 1984; Roger L. Boyd, pers. comm., 1984). The tern is absent from several former breeding sites along the Red River between Texas and Oklahoma.

In Texas, the interior least tern is rare, numbering about 80 birds on segments of the Canadian and Red Rivers in the Texas panhandle and 60 birds on the Rio Grande River (Texas Parks and Wildlife Dept., unpub. data, 1984).

In New Mexico, 20 interior least terns breed on the Bitter Lake National Wildlife Refuge.

Colorado is on the periphery of the interior least tern's breeding range. The tern breeds rarely in the southwestern part of the State near the Arkansas River.

In summary, the current breeding distribution of the interior least tern is a remnant of a more widespread range in the interior of the U.S. This change in the breeding range has taken place over a period of many decades, concurrent with man's development and modification of river systems. In the case of the Missouri River, the only areas where the species breeds are the few stretches of river that are not channelized or inundated by reservoirs. The current breeding distribution of the interior least tern is also restricted to segments of the Niobrara, Platte Arkansas, Mississippi, Ohio, Red, Rio Grande, Canadian, and Red Rivers; and the Cheyenne Bottoms Wildlife Management Area and Quivira National Wildlife Refuge, Kansas; Lake Optima, Salt Plains National Wildlife Refuge, and Edith Salt Plains, Oklahoma; and the Bitter Lake National Wildlife Refuge, New Mexico.

The low numbers of the interior least tern and the continued loss and curtailment of its habitat has led to considerable concern for the species. Since 1975, the States have recognized the plight of the interior least tern. The interior least tern is officially listed as endangered in South Dakota, Iowa, Illinois, Missouri, Texas and New Mexico and officially listed as threatened in Kansas and Nebraska. Indiana officially lists the interior least tern as extirpated. State Natural Heritage Programs unofficially list the interior least tern as endangered in Tennessee and threatened in Kentucky and North Dakota.

The Central Platte Natural Resources District (CPNRD) stated that the Service is relying on hydrologic and biological data relative to vegetative encroachment and flows in the Platte River that are outdated and misunderstood by the Service. The CPNRD commented that the Platte River is in a transition from continuously unvegetated, to intermittently unvegetated (transitional), to annually vegetated. The CPNRD contends that it is not the lack of scouring by the river or spring flooding that has caused vegetation encroachment on the Platte River. Rather, the causative factor behind the development of the woody floodplain vegetation is the presence of water in the river on a year-round basis. The CPNRD submitted two reports by Ecological Analysts (1983) and Henningson, Durham & Richardson (1983), and several testimonies on the matter before the Nebraska State Department of Water Resources, which detail CPRND's contention.

Service response: While the precise cause may be of consequence to future section 7 consultations, the fact of reduced habitat remains and is of direct relevance to this final rule. Both the CPNRD (Ecological Analysts, 1983) and the Service recognize that water development projects on the Platte River have resulted in vegetational changes. In

the present judgment of the Service, the dewatering and regulation of the Platte River over the past 50 years has been a causative agent in the reduction of available wetlands and sandbars for the least tern and many other forms of wildlife. The Nebraska Game and Parks Commission (1984, 1985) notes that loss or modification of tern nesting habitat has occurred along the Platte River because of vegetation encroachment caused by modifications in the flow regime.

The Service conducted a 3-year investigation (1978–1980) of the Platte River (U.S. Fish and Wildlife Service, 1981) "to define habitat-use patterns and habitat requirements of migratory bird populations utilizing the North Platte and Platte River valleys and to assess factors influencing woody vegetation establishment along these rivers." The report stated:

> With approximately 70 percent of the Platte's annual flows diverted for various consumptive uses upstream in Colorado, Wyoming, and western Nebraska, channel width in many areas has been reduced to 10–20 percent of former size. Habitat conditions within the existing channel have also changed as a result of reduced scouring of sandbars and shifting of alluvial sediments. A broad band of mature deciduous woodland now occupies tens of thousands of acres that formerly were part of the river and numerous islands overgrown with woody vegetation exist within the channel.

A concurrent study by the U.S. Geological Survey (1983) substantiates the results of the Service's conclusion on vegetation encroachment. Williams (1978) provides photographs and other documentation on the altered nature of the Platte River. Currier (1982) describes in detail many aspects of the Platte's plant ecology, including plant succession. The Service's report concluded that "species that nest on the open sandbars of the Platte River have been affected adversely by the encroachment of woody vegetation. The most profound impact has been on the distribution and abundance of the least tern and piping plover. Both species require broad expanses of unvegetated river channel and sparsely vegetated sandbars." Faanes (1983) further details the nesting ecology of the interior least tern and the present modification and curtailment of the bare sandbar habitat on the Platte River.

While endorsing Federal listing of the interior least tern, the Nebraska Game and Parks Commission commented that there had been significant loss and modification of the tern's breeding habitat and that its range in Nebraska had been reduced. The Commission further commented that much of the existing breeding habitat remains threatened because of man's manipulation of river flows and disturbances and that, due to severe encroachment of woody vegetation, many of the historic nesting areas on the Platte are now unsuitable for terns. The Commission noted that encroachment of vegetation has been encouraged through significant modifications of the river flow regime, particularly by the loss of annual scouring flows.

The Nebraska Water Resources Association (NWRA) commented that the habitat needs of three endangered species, the whooping crane (*Grus americana*), bald eagle (*Haliaeetus leucocephalus*), and interior least tern, are contradictory and that the species cannot co-exist in the same habitat or areas on the Platte River. The CPNRD submitted a report by Ecological Analysts (1983) discussing the incompatible river flow and habitat conditions required by the three birds on the Platte River.

Service response: Bald eagles primarily use mature trees of riparian woodlands for communal roosts during the winter. Whooping cranes roost on unvegetated sandbars during their migration in April and October (Lingle *et al.*, 1984). Critical habitat has been designated for the whooping crane along the Platte River (43 FR 20938–20942). The interior least tern and piping plover breed on sparsely vegetated sandbars during the summer. The maintenace of sandbar habitat will aid the recovery of the whooping crane, the interior least tern, and, if listed, the piping plover. The well-established and extensive floodplain forest will probably continue to serve as a wintering area for bald eagles. The recovery plan for the bald eagle does not call for increasing the acreage of forest along the Platte River, and the whooping crane recover plan does not call for mature forest removal (U.S. Fish and Wildlife Service, 1980b, 1983). The removal or curtailment of early successional woody vegetation, however, will be necessary for the benefit of the whooping crane and interior least tern (U.S. Fish and Wildlife Service, 1981).

The Service sees no biological conflict in protecting all the avian species. Currently the bald eagle roosts within the critical habitat reach of the Platte River. There is no incompatibility here or in suitable tern nesting habitat, which is also found in the whooping crane's critical habitat. The Platte River Whooping Crane Habitat Maintenance Trust currently manages for the least tern, bald eagle, and whooping crane and sees no biological conflict in protecting these species. Moreover, even if such a conflict did exist, this would not constitute a basis for refusing to list such species if they met the criteria for listing. The conflicts, if any, would be matters to be considered during forumlation of recovery plans.

The CPNRD commented that the Service had not determined whether present State regulatory mechanisms are adequate to protect against loss of interior least tern habitat. The CPNRD cited the laws of Nebraska which specifically require consultation between the Nebraska Game and Parks Commission and the Nebraska Department of Water Resources respecting actions which might impact on flows in the Platte River as such flows may have relevance to sandbar habitat.

Service response: Nebraska's laws are unique among the States where the interior least tern occurs. Other States do not have such a consultation process. The Service views existing laws now protecting this tern as inadequate to protect its habitat when compared to the Endangered Species Act protection now being given under this rule.

The CPNRD commented that the Service "does not know the winter range of the interior least tern and does not know whether the winter range of the interior least term impacts upon the species."

Service response: Although there may be factors affecting the tern on the winter range, based on the best available information the Service believes that the major threats to the interior least tern are on the breeding range. Although the winter range is unknown, it is likely the same as that of the more numerous coastal least tern. The Service notes that the migration routes and winter distribution of the endangered California least tern also remain unknown, although recovery of the species is proceeding well, concurrent with protection of breeding areas. The Service's recovery plan for the interior least tern will investigate migration and winter distribution, and possible threats during these periods. Moreover, the relevant criterion for listing is the degree of species endangerment, not the delineation of each and every possible cause. The possibility of additional threats to the species is not a basis to refuse listing if known threats are themselves sufficient to show danger of extinction.

The Nebraska Ornithologists' Union, Platte River Whooping Crane Habitat Maintenance Trust, Iowa Conservation Commission, U.S. Army Corps of Engineers, and others commented on the value of dredge and other spoil as

breeding sites for interior least terns. The NWRA stated that the Service did not consider the fact that "the development and operation and maintenance of water projects and related sand and gravel facilities in Nebraska has contributed to the establishment of new habitat for the interior least tern. Nebraska and our neighboring States are dotted with thousands of sandpits and gravel pits. The operations of our numerous public power and irrigration project diversions and canals create river sandbars and dredge banks that provide habitat for the least terns."

Service response: The Service has long recognized that least terns readily accept man-created bare ground areas as nesting sites. Creating or restoring such habitat is one facet of the California least tern recovery plan (U.S. Fish and Wildlife Service, 1980a) and coastal least terns readily use dredge spoil (Gochfeld, 1983). However, not all sand and gravel pits are used by terns. In Nebraska, for example, terns do not breed at the numerous sand and gravel pits located away from the Platte River. The terns are restricted to the immediate environs of the Platte River. They appear to prefer natural islands or sandbars but will nest on man-made sites in the floodplains. Such sites, however, are usually connected to the shore and accessible to predators and human disturbance. Studies of tern colonies on sand and gravel pits adjacent to the Platte River indicated very poor productivity in 1984. High mortality of eggs and young and desertion of nest sites caused by predators and human disturbances was noted (Nebraska Game and Parks Commission, 1985). The Service will examine the suitability of man-made nesting sites as they relate to the recovery of the interior least tern.

The Platte River Whooping Crane Habitat Maintenance Trust provided census data on the interior least tern from Shoemaker and Mormon Islands in the Platte River. The Trust commented that rapid willow establishment and growth is a problem for the tern and endorsed the listing. The Trust indicated that in light of proposed water projects, the tern's habitat will continue to deteriorate. The Trust also reported their success in mechanically removing vegetation from an island and attracting nesting terns to the island. They indicated that former nesting habitat can be restored; however, such habitat will require continued and intensive management and maintenance.

One comment provided a list compiled by the Nebraska Department of Water Resources giving the number of proposed water diversion projects on the Platte and South Platte Rivers. The comments indicated that if all the projects are constructed, the loss of water would impact the fishery habitat necessary for the tern and allow further vegetation encroachment.

Service response: The Service and the Nebraska Game and Parks Commission recognize the conflict on the Platte River between water development and wildlife conservation. Through its State consultation process, the Commission has endeavored to protect water flows on the Platte River which will ensure the needs of wildlife (Nebraska Game and Parks Commission, 1984, 1985). However, the final decision is up to the Nebraska Water Resources Department with respect to State or local water projects that are without Federal involvement such as section 404 permits.

The NWRA and the Public Service Company of Colorado expressed concern about the impact that the listing of the interior least tern would have on Federal water projects. The NWRA objected to the proposed rule because of the delays and costs that would be involved in assessing the impacts of Federal activities on the interior least tern. The NWRA also questioned the effectiveness and benefit of a recovery plan and how worthwhile it would be in terms of costs. The NWRA indicated that listing may deter projects of benefit to other wildlife species and human needs.

Service response: The outcome of a recovery effort or future costs for a species or affected projects may not be considered in deciding whether to list a species under the Endangered Species Act. The Service emphasizes that listing a species, as required under the Act, is to be based solely on biological considerations.

The Endangered Species Act prohibits considerations of economic or other nonbiological factors from affecting decisions regarding the determination of endangered or threatened status. The Service indicated in the proposed rule a number of activities that may require consultation between the Service and Federal agencies under section 7(a)(4) of the Act. Although there are provisions in the Act to exempt Federal activities from the section 7 consultation requirements in the event of a jeopardy opinion on a given activity, these provisions are completely independent of the identification and listing of species that are unlikely to survive without the protection of the Act.

The Lower Mississippi Valley Division (LMVD) of the U.S. Army Corps of Engineers conservatively estimates sandbar habitat available for nesting interior least terns above river mile 315 on the Mississippi River at 160 acres per river mile during low water. Suitable nesting habitat is abundant; however, the problem is availability of habitat when the tern is ready to nest. River stage determines location and abundance of habitat. In wet years, river fall may not occur until late July, which would effectively eliminate most of the nesting activity on the river. (The tern would be searching in May for nest sites.) The LMVD stated that channel improvement and dredging activities would have minimal or no impact on the interior least tern. Channel improvement and dredging could continue to provide additional nesting habitat, particularly in the area between Osceola, Arkansas, and Cairo, Illinois, where a large proportion of the remaining terns is known. The LMVD alluded to its existing, successful program of creating nesting sites for the coastal least tern, and indicated its support to prevent damage to and enhance the habitat of the interior least tern.

The Corps' Missouri River Division (MRD) stated its intention of protecting selected sandbars from Gavins Point Dam, South Dakota, to Ponca State Park, Nebraska, by limiting recreational use to help ensure the continued reproductive success of the tern. The MRD stated that listing the interior least tern would complicate the annual review of the operation of Missouri River main stem dams. MRD added that balancing the various project purposes such as navigation and hydropower production may make it impossible to consistently operate in a manner that would maximize interior least tern reproduction.

The Southwestern Division of the Corps acknowledged that a variety of projects in Oklahoma, Kansas, and Texas would have to take the interior least tern's well-being into consideration.

The U.S. Department of Energy (Western Area Power Administration); Basin Electric Power Cooperative, Bismarck, North Dakota; and the U.S. Army Corps of Engineers commented that listing the interior least tern may have adverse impacts on electric power generation at dams on the Missouri River Main Stem System. Modifications of water releases from dams to benefit tern habitat could jeopardize, for example, Western's ability to meet firm electric power contractual commitments that extend through the year 2000. There could also be impacts on revenues and

additional expenses for purchased electric power.

Service response: Listing the interior least tern as endangered will not automatically impose water release restrictions on main stem dams. Main stem dam operations are only one activity that may be found to be subject to the consultation requirement to the extent Federal licensing, activity, or funding is involved. Release schedules have, in the past, imposed problems for nesting terns when the average daily discharge was increased during the nesting season. Last year, for example, during the initiation of nesting the average daily discharge from Garrison Dam on the Missouri River was approximately 13,000 cubic feet per second (cfs), but before the young were fledged the average daily discharge had been increased to nearly 30,000 cfs. At least three tern colonies were known to have been completely inundated. It is these unnatural seasonal fluctuations of the average daily discharge that are, at times, of concern, not the repeated short-term fluctuations attributable to daily hydropower generation. If a jeopardy opinion on a given action or activity is determined, the Service would be required to suggest those reasonable and prudent alternatives that could be taken and still not violate section 7 of the Endangered Species Act.

The National Audubon Society and The Nature Conservancy (TNC) endorsed the listing. Citing the decline of small populations of coastal least terns on the northeast coast of the U.S., TNC stressed the role of predation in limiting small populations of interior least terns. TNC and others, including CPNRD (Ecological Analysts, 1983) emphasized the deleterious impact of humans, dogs, and vehicles on nesting terns. The general public is unknowingly using the habitat of tern colonies for picnics, parties, sandbar golf, camping, and other activities. One comment indicated that cooperative efforts have begun in North Dakota to inform the public of the presence of terns on the Missouri River.

The Texas Parks and Wildlife Department commented that due to the sympatry of the coastal least tern and interior least tern and the questionable distinction between the subspecies (either morphometrically or biochemically) a clear dividing line needs to be established between the two subspecies. Two other comments also suggested that the Service clarify those areas of Louisiana, Mississippi, and Texas that are not included in the interior least tern's range, so that any least tern occurring in those areas would not be subject to the Endangered Species Act.

Service response: In the proposed rule the Service exempted the Gulf Coastal Plain in Louisiana, Mississippi, and Texas from the historical range of the interior least tern in order to separate the coastal least tern from the interior least tern. However, the Service agrees that the term "Gulf Coastal Plain is not sufficiently definitive to separate the interior least tern population. Therefore, the Service will consider the historic range of the interior least tern in Louisiana to only include the Mississippi River and tributaries commencing north of Baton Rouge; in Mississippi the historic range only includes the Mississippi River; and in Texas the interior least tern's historic range includes the entire State except the Texas coast and a 50-mile zone inland from the coast. These changes are reflected in the rule promulgation at the end of this document. All least terns occurring within these areas will be protected by the Endangered Species Act.

Ten comments disagreed with the Service's reasons for not proposing critical habitat. They maintained that there are permanent sites, such as Salt Plains National Wildlife Refuge, Oklahoma; Bitter Lake National Wildlife Refuge, New Mexico; and Quivira National Wildlife Refuge, Kansas, where interior least terns have consistently bred for over 20 years. The Illinois Department of Conservation stated that many islands of the Mississippi are not ephemeral but stable, although becoming increasing over-vegetated, due to current channel maintenance procedures. Thus, certain interior least tern nesting islands could be identified as critical habitat. The Nebraska Ornithologists' Union and others commented that general localities, specifically certain river reaches, can be designated as critical habitat. For example, the lower 100 miles of the Niobrara River, Nebraska, 200 miles of the Central and Lower Platte River reaches, and 90 miles of the Missouri River in North Dakota from Garrison Dam to the headwaters of the Oahe Reservoir are definable locations that are consistently used by terns, even though the exact island or sandbar may vary from year to year. The same can be said of other river reaches in the current range of the interior least tern.

Service response: The Service maintains that at this time the designation of critical habitat would not provide an overall benefit to the tern and, therefore, is not prudent. Affected National Wildlife Refuge managers and other involved parties have been and will be notified of the tern's management requirements. A fragmented critical habitat approach would not recognize all areas important to the species. See also discussion in the Critical Habitat section below.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the interior least tern should be classified as an endangered species because the tern is in danger of extinction throughout a significant portion of its range. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424; revision published October 1, 1984; 49 FR 38900–38912) were followed. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to the interior least tern are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The construction of reservoirs and pools along rivers has permanently eliminated some islands and prevents the formation of others. Such reservoirs and pools exist along hundreds of miles of rivers of the Mississippi Basin. Stretches of river below dams are so regulated that a river's natural erosion and deposition processes, which are responsible for creating, destroying, and maintaining nesting islands, no longer occur. The controls on the river have reduced the spring floods, which would normally scour vegetation from islands, and have limited the amount of alluvium for island formation. Consequently, on most of the remaining islands, herbaceous vegetation is followed by shrub and tree species, which ultimately form the permanent vegetation of the island, a condition unsuitable for nesting interior least terns.

Johnson *et al.*, (1976) reported that in North Dakota, a lack of new alluvial deposits is leading to a floodplain forest of advanced successional stage along the Missouri River below Garrison Dam. Plant succession is believed to be the cause of the loss of the interior least tern colony at DeSoto Bend National Wildlife Refuge in Iowa. The braided nature of the Platte River in most of Nebraska has been largely eliminated. Its historic flow has been reduced 60 to 80 percent by irrigation withdrawals. As a result, the width of the river has been reduced, and

most of the islands are heavily vegetated (U.S. Fish and Wildlife Service, 1981). Plant succession on islands and riverbanks is occurring on other midwest rivers. Even dredge islands develop late seral stages of vegetation within a few years and have been subsequently avoided by terns. The vegetative character on natural and manmade islands in regulated rivers will continue to change to a point of unsuitability for nesting terns as observed by Wycoff (1960) during a period of 17 years on the Platte River. Along the Niobrara River in Nebraska, vegetation encroachment is not presently a problem as there are no major control structures on that river.

A series of locks, dams and channel maintenance activities on the Mississippi River and its major tributaries (Ohio and Missouri) have resulted in a river flow state that inundates islands, shrinks the river width, and restricts the amount of alluvium for island formation. Construction under the Missouri River Bank Stabilization and Navigation Act during the last 50 years has apparently eliminated nearly all the sandbar and sandbeach habitat. For example, one section of the Missouri River (Nebraska-Iowa border) was estimated to have had 25,000 acres of potential nesting habitat at the turn of this century. Approximately 99 percent of this habitat has now been lost. Where sandbars still occur along the Nebraska-South Dakota boundary, 7,800 acres of sandbar habitat have been lost between 1956 and 1975, including losses within the Missouri National Recreation River. Sandbars along Nebraska's entire Missouri River boundary have been virtually eliminated with the exception of the remaining 2,200 acres of exposed sandbars inventoried in 1980 along the 50-mile Missouri National Recreation River (Schmulbach *et al.*, 1981).

In summary, bare sand islands and other bare areas will continue to decline and many of those islands that do survive will undergo plant succession unfavorable to the interior least tern. Moreover, human use of river islands has been increasing and may hinder reproductive success (Anderson, 1983). Vehicular and other recreational activities are widespread along the Platte, Missouri, and Mississippi Rivers and occur largely on the barren islands favored by terns. Terns nesting on Salt Plains National Wildlife Refuge and Edith Salt Plain in Oklahoma are threatened by chloride control projects, which will either flood their habitat or reduce their food resources and may fail to provide replacement habitat.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Not applicable for the species.

C. *Disease or predation.* Disease has not been a problem known to occur in this species. Coyotes and foxes prey on interior least tern eggs, and evidence exists that such predation can have a serious impact on nest success. Dogs and other domestic animals accompanying human use of sandbars can disrupt tern nesting through disturbance or predation. Dogs and cats were blamed for disrupting some colonies of the endangered California least tern (U.S. Fish and Wildlife Service, 1980).

D. *The inadequacy of existing regulatory mechanisms.* The interior least tern is listed as threatened or endangered by the States of South Dakota, Nebraska, Iowa, Illinois, Missouri, Kansas, New Mexico, and Texas. As a general rule, however, such listings do not result in State protection of the habitat of this species. The Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*) protects the bird and its parts, nests, and eggs from taking and trade. However, this Act does not protect against habitat loss, which is the main threat to the tern, and, by itself, will not be adequate to prevent the species' further decline. The Endangered Species Act would offer additional protection for the species, largely through the recovery and consultation processes.

E. *Other natural or manmade factors affecting its continued existence.* None is known.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Endangered status is appropriate because of the low numbers and scattered distribution of the tern and the continued threat to the bird's breeding habitat. None of the comments received by the Service recommended threatened status. Although many States already list the species, their laws do not provide the high degree of protection afforded by the Endangered Species Act. Not to list this bird would be contrary to the evidence gathered to date.

Critical Habitat

Section 4(a)(3) of the Endangered Species Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary shall specify any habitat of a species which is considered to be critical at the time the species is determined to be endangered or threatened. For this particular situation, however, the Service generally has concluded that there is no demonstrable overall benefit to the tern in designating critical habitat and that such an action is not prudent. Affected land management agencies and other involved parties are aware or will be notified of the location of areas needing special management to accommodate the needs of the tern. No additional notification benefits would accrue from a critical habitat designation beyond those from the listing. The interior least tern is a wide ranging species whose occupied habitat would be difficult to delineate and may vary over time. Service recovery actions will continuously update and address the tern's habitat management needs. Possible increased vandalism and taking could occur due to designating critical habitat. The Service feels there is no net benefit from designating critical habitat at this time. Should the Service receive additional information on this subject, which would warrant reconsideration of this decision, the Service could propose critical habitat in the future.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part below.

The Migratory Bird Treaty Act makes it illegal to take, possess, sell, deliver, carry, transport, or ship interior least terns, their parts, eggs, nests, and young. However, it affords no protection to their habitat. Section 7(a) of the Endangered Species Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402 and are now under revision (see proposal at 48 FR 29990; June 29, 1983). Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species. If a Federal action may

affect a listed species, the responsible Federal agency must enter into formal consultation with the Service.

It is not possible now to state with certainty which particular ongoing or planned projects or areas of activity would require consultation and possible modification. The following represent some activities which, based upon knowledge of the tern's needs, may be found to be subject to the consultation requirement to the extent Federal licensing, activity, or funding is involved:

Desalinization or chloride control projects on the Arkansas River and the Red River Basin;

Channelization, stabilization, and flood control projects on the Missouri River;

Construction, maintenance, and operation of navigation channels on the Mississippi and lower Missouri Rivers, particularly those which prevent formation or maintenance of bare sandbars;

Operation of locks, dams, and energy diversions in the Mississippi Basin;

Construction and operation of the bypass channel for Edith Salt Plains, Oklahoma; and

Water release operations from the Gavins Point Dam and the Lewis and Clark Reservoir and the Garrison and Oahe Dams, particularly during the tern nesting season, when releases may inundate nests.

This does not indicate that all such actions will, in fact, be found to require consultation and still fewer consultations would require the termination of any such project. Modification of the Federal actions rather than termination has been the experience of the Service. Affirmative conservation plans may be implemented to avoid causing jeopardy to the tern.

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered species. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that had been taken illegally. Certain exceptions apply to agent of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities.

The final rule brings sections 5 and 6 of the Endangered Species Act into effect with respect to the interior least tern. Section 5 authorizes the acquisition of lands for the purpose of conserving endangered species. Pursuant to section 6, the Service will be able to grant funds, when available, to affected States for management actions aiding the protection and required recovery actions for the interior least tern.

The development of a recovery plan for this bird will begin and bring together State and Federal efforts for the conservation of the tern. The plan will establish an administrative framework, sanctioned by the Act, for agencies to coordinate activities and cooperate with each other in conservation efforts. The plan will set recovery priorities and estimate the cost of the various tasks necessary to accomplish them. It will designate appropriate functions to each agency and a time frame within which to complete them. If the recovery plan action has the desired effect, then the threats to the tern might become lessened such that the bird could be considered for threatened status or for removal from the List of Endangered and Threatened Wildlife, with the latter action being one of the principal goals of the Service.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined by the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Literature Cited

American Ornithologists' Union. 1957. Checklist of North American birds. Fifth edition. Baltimore, American Ornithol. Union. 691 pp.

—. 1983. Checklist of North American birds. Sixth edition. Lawrence, Kansas, American Ornithol. Union. 877 pp.

Anderson, E.A. 1983. Nesting productivity of the interior least tern in Illinois. Unpub. Rep. Coop. Wildl. Res. Lab., Southern Illinois University, Carbondale. 19 pp.

Burleigh, T.D., and G.H. Lowery. 1942. An inland race of *Sterna albifrons*. Occ. Papers Mus. Zool. No. 10, Louisiana State University.

Burroughs, R.D. (ed.) 1961. The natural history of the Lewis and Clark expedition. Michigan State Univ. Press. 340 pp.

Coues, E. 1874. Birds of the northwest: a handbook of the ornithology of the region drained by the Missouri River and its tributaries. U.S. Geol. Survey of the Territories, Misc. Publ. No. 3. 791 pp.

Currier, P.J. 1982. The floodplain vegetation of the Platte River: phytosociology, forest development, and seedling development. Ph.D. Thesis, Iowa State Univ., Ames. 332 pp.

Downing, R.L. 1980. Survey of interior least tern nesting populations. American Birds 34(2):209–211.

Ducey, J.E. 1981. Interior least tern (*Sterna albifrons athalassos*). U.S. Fish and Wildlife Service, Pierre, South Dakota Unpub. Rep. 56 pp.

Ecological Analysts. 1983. An evaluation of historical flow conditions in the Platte River as related to vegetation growth and habitat use by the endangered whooping crane and bald eagle and the threatened interior least tern. Lincoln, Nebraska. 118 pp.

Faanes, C.A. 1983. Aspects of the nesting ecology of least terns and piping plovers in central Nebraska. Prairie Nat. 15(4): 145–154.

Ganier, A.F. 1930. Breeding of the least tern on the Mississippi River. Wilson Bull. 42:103–107.

Gochfeld, M. 1983. Colony site selection by least terns: physical attributes of sites. Colonial Waterbirds 6:205–213.

Grover, P.B., and F.L. Knopf. 1982. Habitat requirements and breeding success of charadriiform birds nesting at Salt Plains National Wildlife Refuge, Oklahoma. J. Field Ornithol. 53(2):139–148.

Hardy, J.W. 1957. The least tern in the Mississippi Valley. Publ. of Museum, Michigan State Univ., Biol. Ser. 1(1):1–60.

Henningson, Durham & Richardson, Inc. 1983. Quantitative analysis of morphologic changes in the Platte River and miscellaneous water resources aspects of the proposed Prairie Bend-Twin Valley Project. Omaha, Nebraska. Unpub. ms. 97pp.

Johnson, W.C., R.L. Burgess, and W.R. Keammerer. 1976. Forest overstory vegetation and environment on the Missouri River floodplain in North Dakota. Ecol. Monogr. 46:59–84.

Lingle, G.R., P.J. Currier, and K.L. Lingle. 1984. Physical characteristics of a whooping crane roost site on the Platte River, Hall County, Nebraska. Prairie Nat. 16(1):39–44.

Massey, B.W. 1976. Vocal differences between American least terns and European little tern. Auk 93:760–773.

Nebraska Game and Parks Commission. 1984. Biological opinion: Enders-South Platte Diversion Project. Unpub. ms. 88 pp.

—. 1985. Biological opinion: Little Blue-Catherland Project. Unpub. ms. 96 pp.

Schmulbach, J.C., J.J. Schuckman, and E.A. Nelson. 1981. Aquatic habitat inventory of the Missouri River from Gavins Point Dam to Ponca State Park, Nebraska. Unpub. ms.,

U.S. Army Corps of Engineers, Omaha. 15 pp.
Schulenberg, J.H., and M.B. Ptacek. 1984. Status of the interior least tern in Kansas. Amer. Birds 38(6):975–981.
Thompson, B.C. 1981. Subspecific taxonomy of the least tern with emphasis on Texas specimens. Unpub. ms. 11 pp.
—. 1982. Distribution, colony characteristics, and population status of least terns breeding on the Texas coast. Ph.D. Thesis. Texas A&M Univ., College Station. 124 pp.
Thompson, D.H., and M.C. Landin. 1978. An aerial survey of waterbird colonies along the upper Mississippi River and their relationship to dredged material deposits. U.S. Army Engineer Waterways Exp. Sta. Tech. Rep. D–78–13.
U.S. Fish and Wildlife Service. 1980a. California least tern recovery plan. 58 pp.
—. 1980b. Whooping crane recovery plan. 206 pp.
—. 1981. The Platte River ecology study. Special Res. Rep. Northern Prairie Wildlife Research Center. 187 pp.
—. 1983. Northern states bald eagle recovery plan. 76 pp.
U.S. Geological Survey. 1983. Hydrologic and geomorphic studies of the Platte River Basin. Geol. Surv. Prof. Paper 1277.
Williams, G.P. 1978. The case of the shrinking channels—the North Platte and Platte Rivers in Nebraska. U.S. Geol. Surv. Circ. 781.
Wingfield, G. 1982. Tough times for terns. Nebraskaland 60(10):36–40, 42–43.
Wycoff, R.S. 1960. The least tern. Nebraska Bird Rev. 38(3):39–42.

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The primary author of this fianl rule is Mr. John G. Sidle, Endangered Species Division (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulation Promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subpart B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*)

2. Amend § 17.11(h) by adding the following, in alphabetical order under "BIRDS," to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Birds:							
*	*	*	*	*	*		
Tern, least	*Sterna antillarum*	U.S.A. (Atlantic and Gulf coasts, Mississippi Basin, and CA), Greater and Lesser Antilles, Bahamas, Mexico; winters Central America or northern South America.	U.S.A. [AR, CO, IA, IL, IN, KS, KY, LA (Mississippi R. and tributaries N of Baton Rouge), MS (Miss. R), MO, MT, NE, NM, ND, OK, SD, TN, TX (Except within 50 miles of coast)].	E		NA	NA
*	*	*	*	*	*		

Dated: May 22, 1985.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85–12860 Filed 5–24–85; 8:45 am]

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Tuesday, May 28, 1985

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

S.J. Res. 103 / Pub. L. 99-43

To designate the month of May 1985, as "Very Special Arts U.S.A. Month". (May 21, 1985; 99 Stat. 76) Price: $1.00

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

New units issued during the week are announced on the back cover of the daily **Federal Register** as they become available.

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